

Eureka Township

Dakota County

State of Minnesota

Eureka Town Board Meeting of January 10, 2011

Call to Order

Chair Brian Budenski called the January 10, 2011, Eureka Town Board meeting to order at 7:00 p.m. Members present were Supervisors Nancy Sauber, Brian Budenski, Dan Rogers and Kenny Miller. Clerk/Treasurer Nanett Sandstrom was present to record the minutes. Lu Barfknecht was present as Planning Commission Liaison. Township Attorney Trevor Oliver was present. See attached attendance sheet for additional persons in attendance.

The meeting opened with the Pledge of Allegiance.

Approval of Agenda

The following additions were made to the agenda:

Road Contractor Time: On item 4. Add: Cost of study

Other Business:

C. Attorney-Related Business: On item 6. Add: Septic Inspector documentation

9. Resolution for County on Lot Split Approval

10. Other

I. Misc. Updates: On item 2. Add: a. Distribution of Study (*Question for Attorney*)

b. "What's New?" on Website

3. Windmill Development Agreement- TKDA sign-off

4. Building Inspector Contract signed?

5. Add to Website- Pre-1982 Lot of Record Policy and Septic Policy (*if approved*

tonight)

A motion by Supervisor Nancy Sauber: To approve the agenda as amended. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

Public Comment Period

No public comments.

There were two special guests in the audience, Paula Guetter and Amanda Sames, who are doing a study on the Vermillion River Watershed. They will be interviewing and sending out surveys to officials and citizens regarding the Vermillion River Management.

Treasurer's Report

Checking Account Balance: \$788.38. Outstanding Checks: \$138.83. Savings Account Balance: \$362,275.90. CD Account Balances: \$64,843.56. The Ledger Balance as of December 31, 2010, is \$427,769.01.

A motion by Supervisor Brian Budenski: To approve the Treasurer's Report as presented. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

Supervisor Nancy Sauber reviewed the Attorney billing. Nancy commented for clarity for the Board's benefit on the Attorney billing on 12/30/2010. This item listed billing for Trevor to prepare for and attend meeting with Nancy Sauber to discuss Country Stone settlement, letter to residents re: snow storage, right of way issues, and upcoming Board items. The discussion on Country Stone was in relationship to the article Nancy wrote after meeting with Trevor and that all Board members had received for discussion at the meeting. A Star Tribune article on Country Stone was printed after the December Town Board meeting. The information in the article was not accurate. Nancy wrote an article to be published in the Eureka Newsletter to inform the citizens with the correct information. She spoke with the Township Attorney because this issue involved litigation, and she wanted the facts stated correctly and wanted to make sure she was not overstepping in any way. The discussion on snow storage and right of way issues was involving the snowplow letter. Had Supervisor Kenny Miller asked that the Attorney review the letter, Nancy said she would have forwarded it to Trevor. However, Kenny did not so, and since it contained legal references and at least one thing in it was incorrect, Nancy, as Primary Attorney Contact Person, asked Trevor to review it. The discussion on right of way issues also involved the complaint received on Highview Ave. concerning landscape fabric and rocks in the ditch.

The Town Board reviewed the Claims Lists and Net Pay Account Distribution.

Bills and Receipts

The Clerk presented the following bills for payment:

Henry's Excavating	Road maintenance thru 12/31/2010	\$9,897.50
MNSPECT	Inspection Service -December	\$463.31
Dakota Electric Association	Town Hall Electric	\$110.01
Frontier Communications	Phone Service Town Hall	\$112.94
Culligan	Water Softener Town Hall	\$18.51
Dick's Sanitation	Garbage Service Town Hall	\$43.01
T & C Commercial Cleaning	Clean Town Hall – December	\$42.85
Kelly & Lemmons	Legal Services thru 12/31/2010	\$2,315.00
PERA	Payroll Period 12/1/2010 to 12/31/2010	\$182.59
Nanett Sandstrom	Expenses 12/1/2010 to 1/7/2011	\$632.91
TKDA	Commercial/ Industrial Study	\$5,082.66
TKDA	Commercial/ Industrial Study	\$1,005.08
TKDA	Windmill LLC Development Agreement	\$137.23
Dakota County Treasurer	Salt/Sand	\$249.97
Carol Kelly	PC Recorder- 12/1/2010 to 12/31/2010	\$117.94
Nanett Sandstrom	Clerk Payroll 12/1/2010 to 12/31/2010	\$1,088.89
IRS	January Deposit	\$227.92
Pat Fossum	Election Judge Training 2010	\$25.00
Rose Buchanger	Election Judge Training 2010	\$25.00
EMC Publisher	Legal Ads	\$210.00
Dakota County Assn of Townships	Dues 2011	\$972.26
State of Minnesota	Sales and Use Tax	\$9.00
Total Bills Presented		\$22,969.58

A motion by Supervisor Nancy Sauber: To approve Claims List and Net Payroll as presented. The motion was seconded by Supervisor Kenny Miller. Roll Call vote was taken on the motion.

Kenny Miller- Aye, Brian Budenski- Aye, Nancy Sauber- Aye, Dan Rogers- Aye. The motion carried by unanimous vote

The Town Board reviewed the following financial reports prepared by the Clerk: Current Investments, Statement of Receipts and Balances, Cash Control Statement, Disbursements Register, and Receipts Register.

The following checks were not listed on the Disbursements register: 6137, 6138 and 6141. All three checks are voided checks.

The following receipts were deposited in December of 2010:

• **Local Permits**

Andi Krapu- Additional to Permit 10-06	\$30.00	Firespace Inc- Permit ET10-009	\$50.00
Dan Wohlers- Permit ET10-008	\$115.00	Total Mechanical- Permit 09-49	\$2,101.12
Julie Larson- Zoning Permit 001017 & 001018	\$25.00	Pronto Heating- Permit ET10-010	\$70.00
Julie Larson- Application Ag Building	\$25.00		

• **Other Receipts**

Dakota County- 2 nd half taxes	\$196,000.00	Castle Rock Bank- Interest CD	\$390.56
Carol Nassif- Kennel License	\$100.00	Castle Rock Bank- Interest CD	\$431.82
Dakota County- Unclaimed Funds	\$378.95	Castle Rock Bank- Interest Savings	\$1,045.04
MN Dept of Finance- Market Value Credit	\$1,648.20		

TOTAL RECEIPTS AS OF DECEMBER 31, 2010 **\$202,410.69**

Supervisor Nancy Sauber reviewed the Clerk's Books for December and noted that everything was in order.

A motion by Supervisor Brian Budenski: To approve the balance of the Financial Reports. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

Budget

The Town Board reviewed the budget.

The Clerk presented Northern Natural Gas Utility Permits 2007-04-1, 2007-04-2, 2007-04-3, 2007-04-4 for Bond Release. Supervisor Brian Budenski inspected the work in the Township Road Right of Ways and signed off on the permits. The Township holds a total of \$6,500 in bonds on the above-listed permits.

A motion by Supervisor Kenny Miller: To approve the release of the Bonds in favor of Northern Natural Gas Company as identified in the letter presented by the Clerk. The motion was seconded by Supervisor Nancy Sauber, with the following friendly amendment: Letter dated January 10, 2011, as presented, including the permit numbers. The motion carried by unanimous vote.

The bond release check will be issued in the February 2011 Claims. The date of the letter will be updated to February 14, 2011, the date of the February Town Board meeting.

The 2012 Budget Meeting date was set for Tuesday, January 25, 2011, at 7:00 p.m.

Contractor Time

Road Contractor Mark Henry was present. The Town Board discussed recent road complaints concerning snow. Road Supervisors felt that the Road Contractor has been doing a good job. It has been an unusual winter.

1. **Installation of “no parking” signs near Chub Lake-** The signs will be installed in the spring.
2. **Snowplow letter-** The Township Attorney was asked to explain Township right-of-ways. The Road right-of ways in Eureka Township are defined by maintenance. The Township has a given right-of-way to the width of the Maintenance. (Maintained 6 years) The starting point for the local government is a claim to the far side of the ditches, under the theory the right-of-way needs to be drained and therefore the maintenance of ditches is key to operation of the road. It would be defensible to claim any supporting slope for the roadbed as something the Township maintains. (The roadway, the bank that supports the roadway to the middle of the bottom of the ditch) The road right-of-way needs to be determined on a case by case basis.

The snowplow letter would be used as a mailbox hanger as a gentle reminder to violators. If after 2 notices the violation continues, the matter would be turned over to the Sheriff’s Department. The snowplowing information will be placed in the newsletter. A few changes to the snowplow letter were presented. The Clerk was asked to update the letter accordingly.

3. Road Complaint

Road Supervisor Dan Rogers drafted a letter for the Board to send to the complainant. A few changes were made to the letter. The Clerk was asked to update and send the letter to the complainant.

4. Speed limit Study

Pete Storlie had requested through Kenny Miller that the Township ask the County to perform a speed limit study on the following Township roads: Eureka Estates, 235th St. and Highview Ave. Pete has concerns whether the posted speed limit is enforceable. The Town Board agreed to ask the County to perform a speed limit study on those Township roads. It was also noted that when the signs on Highview were put in, the requirements were looked into by the Board and were found to be sufficient as to length of roadway in question and its population density. It was also noted that in the past, residents near Eureka Estates took it upon themselves to put up speed limit signs. This was not authorized by the Board. Road Supervisor Kenny Miller will contact the County about doing the study.

Sign Study

The Township is mandated to have a plan by 2012 and the plan must be implemented by 2015. The signs need to be cataloged and a replacement plan drawn up based on sign replacement

needed. The study should take 10-20 hours. The Road Contractor was asked to perform the road study. Road Supervisor Dan Rogers will help out with the road study.

No Dumping Signs and the possible reward offered- A policy needs to be written, approved, and placed on the website.

Other Business

A. Planning Commission Update

- 1. Comp Plan-** Ken Olstad is posting a summary of the status in the newsletter. An e-mail was received from Patrick Boylan of the Met Council that they have determined that the Comp Plan is now complete. He will be drafting a “complete for review” letter to be sent to the Township.
- 2. Noise and Nuisance Ordinance-** Planning Commission would like to see a statement of progress in the newsletter. Is there still intent of having a roundtable meeting of the Town Board and Planning Commission prior to the Ordinance going to Public Hearing? The Planning Commission would like a draft of the Ordinance once the Town Board comes to some kind of agreement.
- 3. Vince Mako** is looking further into the membrane ordinance. The Town Board commented that they had already accepted the Planning Commission’s options on ways to proceed. There is no need for the Commission to look into it further. This discussion and result was in the Board minutes, and the liaison Commissioner at the meeting question should have reported this to the rest of the Planning Commission. The Ordinance language needs to be drafted by the Attorney.
- 4. Wind Energy-** Ken Olstad is working on this.

D. VRWJPO permitting process

The Clerk had conversation with Travis Thiel of the VRWJPO on the permitting process. A tentative processing plan was discussed. The Clerk will continue corresponding with Travis on the permitting process. As currently proposed, once an application is received in the Vermillion Watershed, the Clerk will email the application to Travis Thiel for determination if a VRWJPO permit is needed. This is somewhat similar to how Shoreland letters/permits are currently handled by the County. A copy of the Township Lot Split Ordinance and Resolution needs to be sent to the VRWJPO. Lot split requests in the Vermillion River Watershed need to be sent to the VRWJPO prior to approval.

Planning Commission, land use permits and related items

A. Land Use & Zoning Issues

B. Other Business

1. Wat Lao

No representative was present from Wat Lao to represent their CUP. A junk complaint has been received on the Wat Lao property, which also needs to be addressed. The Clerk was asked to send a letter to Wat Lao reminding them that the CUP review is past due and requesting a response to the complaint within 30 days.

The need for Outdoor Assembly permits was discussed. Everyone, including religious organizations, needs to apply for an Outdoor Assembly permit if more than three hundred (300) persons are in attendance or are reasonably expected to be in attendance, or at which between one hundred (100) and three hundred (300) persons are in attendance or are reasonably expected to be in attendance for a period which continues or can reasonably be expected to continue for eight or more consecutive hours.

The R.O.W. issue concerning the wall is being handled by Dakota County and the Building Inspector.

B. Planning Commission Appointment

No letters of interest have been received for the vacant Planning Commission position. The Town Board will attempt to find a replacement for appointment at the next Town Board Meeting. The position will be posted in the Township newsletter.

C, Attorney-related Business

7. Christiania Lutheran Church- possible cluster

Jeff Otto represented Christiania Lutheran Church on their property rights clarification. A few corrections were noted on the presented materials. Jeff Otto will correct the draft statement and e-mail the Town Board a copy of the final version for Township records. Jeff thanked the Board for its prompt response concerning this issue for the Church.

1. Nuisance, Pools and Kennels Ordinance

The Town Board discussed the proposed Kennels Ordinance. Under the proposed Ordinance, a Kennel License is required if you own three or more dogs, which is the number common in such ordinances. There is no maximum number of dogs allowed. When going through the licensing procedure, the operator would have to show that adequate housing was provided for however many dogs were to be kept. The definition of "Dog Kennel" will be removed from the Ordinance, leaving the definition of "Private Kennel" to be the operative definition. The representation of neighboring dwellings on the site plan will be added, as there is a restriction on setback from those dwellings. The Town Board agreed that the Ordinance would then be ready to go to the Planning Commission.

The Town Board discussed the proposed Pools Ordinance. In the proposed Ordinance, a building permit is required for all in-ground pools and for above-ground pools that are *both* over 24" deep *and* hold more than 5,000 gallons. The Attorney commented that the following language needs to be added: B. 4. c. Other means of protection approved by the Town Board that can be acceptable as long as the degree of protection is similar to having a powered safety cover or a door. Item 2 C. 10, regarding the filling of pools via fire hydrants, is to be removed. The Town Board agreed that the Ordinance would then be ready to go to the Planning Commission. The Town Board discussed temporary fencing. It was left as written.

The Town Board discussed the Noise Ordinance. They agreed that it needs more review and consideration before being sent to the Planning Commission. The Board has the concern as to whether the types of nuisance noises experienced in the Township will be effectively addressed by

the current possible wording. A short discussion followed: A noise complaint could be received by a resident right next to the noise generation, while the assessment of the noise would be made at a further distance, where it may not be offensive or disruptive. Yet the persons living closer to the noise are affected adversely. People have a right to quiet enjoyment of their property. The Board would like further discussion on what the MN League of Cities has for nuisance noise, which is what the original proposed wording was based on, vs. a more MPCA-based wording of a *new* ordinance that other municipalities do not have or rely on. The Board asked for input from Attorney Patrick Kelly as well, since the one possible wording is new.

2. Septic Policy

The Township Attorney did not feel that the Township needs a septic policy to extend the pumping schedule if a property is vacant, as was suggested to the Clerk by Michael Rutten at the County. When the property is sold or becomes occupied, even through rental, the septic will need to be brought up to Code within 6 months. The Clerk will send letters to property owners of unused systems on vacant properties.

3. Complaint- Mahoney, 8150 250th St. W.

No response has been received. Visibility of alleged junk on the property has increased due to the season and leafless trees. Supervisor Dan Rogers was asked to do a visual inspection from the road, take pictures, and to report back to the Town Board at the February Town Board Meeting.

4. Complaint- Budenski, 24235 Highview Ave.

Complaint submitted to Township: "Brian put landscape fabric and rocks in the Township right-of-way. This is a danger to all motorists who drive on Highview as well as a violation of Township rules. Please correct this ASAP!"

Response from property owner: The landscape rock is in the bottom of the ditch. The landscape fabric goes up the sides of the ditch. The landscape fabric is being placed in the ditch to suppress the weeds. It will not be covered with rocks as the ditch is too steep.

The Township Attorney was engaged in discussion on the complaint. A motion by Supervisor Kenny Miller: The three Supervisors present at the January 10, 2011, Town Board Meeting do not feel that the landscape rocks and fabric placed in the ditch are interfering with traffic on the roadway, nor are they interfering with any sightlines or issues that may cause a problem to the roadway or increase a hazard to motorists on the roadway. The Township Attorney was consulted regarding the Ordinance language on this issue. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

5. Buffington

No update

6. Country Stone SWPP/Septic Inspector Documentation

The complete SWPP has not been received. The documentation from the Septic Inspector has not been obtained. Supervisor Budenski will follow up on these matters.

8. Non-Compliant Septics

Second-notice letters are ready to be mailed. Residents will be given 30 days to respond. If no response is received, the non-compliant septic systems will be turned over to the Septic Inspector for follow-up. A Warning Notice of Violation will be sent by the Septic Inspector. The Septic Inspector will perform an inspection and if work needs to be done, it will be charged against the owner's taxes.

SSTS training is scheduled for May. The Clerk is required to take this training.

9. Resolution for County- Lot Split Approval

The Town Attorney will draft the Resolution. Move to February Town Board Meeting.

10. Other

Commercial/Industrial Study- Distribution

Nancy Sauber thanked Jeff Otto for volunteering 2.5 hours of his time inserting the numbered surveys randomly into envelopes. Jeff and Nancy then immediately sealed all the envelopes, completing the task. Jeff was asked by Nancy to assist in this way to demonstrate that anonymity is assured for the landowners responding to the survey, as was mentioned in the cover letter. Duplicates for property owners were deleted by mailing addresses. Thus some names of property were deleted, so mailings may have been addressed to trusts rather than a single property owner or *vice versa*. The Township Attorney commented that there is no legal obligation for someone receiving a voluntary participation survey to send it out to all members of a trust. The Township is avoiding double-issuing a survey. The Board individually and unanimously agreed to the procedure as outlined above.

G. Newsletter

1. Snowplowing- An article, "Snowplowing Blues," will be published in the newsletter. Emergency responders in the Township will be asked to contact the Clerk or Road Supervisors with their addresses.

2. Country Stone Update

There was another article printed in the Star Tribune in December. Once again, this article did not correctly state the facts. Supervisor Nancy Sauber drafted a newsletter article in response to the Star Tribune articles. Nancy consulted the Township Attorney before, and copied him after, drafting the article to make sure the facts concerning the litigation were correct. She also submitted this draft to Jeff Otto as a courtesy as he was mentioned in it regarding his role as a negotiator in the matter. The article will be placed in the Township newsletter to accurately update citizens on the Country Stone issue. Comments submitted by Jeff Otto will be combined with Nancy's article. The Board approved this article and the combining of the two drafts as submitted. This was done without any objection, except that stated by Kenny Miller regarding his being included as part of the Board updating the citizens, because of his testimony in the case. Due to this objection, the words "The Town Board would like to update the citizens..." were modified to something along the lines of "This article is to update the citizens..." The article, however, will be in "Towns Board News," where other Town Board Country Stone updates have appeared in the past.

3. Commercial/Industrial Study Update

Information from “What’s New?” on the website on the Commercial/Industrial Study will be published in the newsletter. Both sites will also include further wording that the Board does not intend to impose commercial/industrial zoning on any property owner not wishing it. The question of the Township’s imposing such zoning was raised and supported by Supervisor Miller at a recent C/I Task Force meeting and again at this meeting of the Board. Both the Task Force and the Board have responded, saying it is not the intent to impose such zoning on the unwilling. Ours is a local government, and as such, it is under our control. Part of the effort of the survey is to determine which landowners may have a wish to develop their land in such a way. The study would still need to look at the various factors involved and whether this is of benefit to the Township as a whole. This is similar to another question raised at another Task Force meeting about listening to the “small landowners.” It was also agreed then by the Task Force and later affirmed by the Board that **all** landowners would be “listened to.”

4. Other

The Town Board discussed other newsletter items. It was noted that there is only one more Town Board meeting before the election this year. The Clerk was asked, when posting the Budget meeting on Tuesday, January 25, 2011, at 7:00 p.m., to include the agenda item of starting the discussion of the Board presentation for the Annual Meeting.

E. Response from Sheriff’s Department

The Ordinances are still at the Attorney for review.

F. JPA County- SSTS Pump Maintenance Program

A motion by Supervisor Brian Budenski: To approve Dakota County Septic System Fee Administrative Services Agreement, dated December 22, 2010, Contract 13051. The motion was seconded by Supervisor Nancy Sauber. The motion carried by unanimous vote.

Minutes

Capitalization and punctuation errors were noted and corrected. The following additional corrections were made to the December 13, 2010, Town Board Meeting minutes:

Page 10- A. 1. the last sentence should read: “The County does not like to place permanent signs that restate the law, because then motorists think that it applies only to that particular location and that passing on the right, for example, is permissible where it is not posted.” On Item 3. - Change “Kelly” to “Brosseth”. On Item 5. - Add: “These will all be installed by the Annual Meeting in March.” **Page 11-** put quotes around “No parking signs”.

A motion by Supervisor Nancy Sauber: To approve the Eureka Town Board minutes of the meeting of December 13, 2010, as amended. The motion was seconded by Supervisor Brian Budenski. The motion carried by unanimous vote.

I. Misc Updates

1. Kelly Aggregate Sign- The mining reviews are in February. This issue can be addressed at that time.

2. Building Inspector Contract- The original documents have been signed. The Building Inspector has not yet picked up his copy.

3. “What’s New?” on Website- The Clerk was asked to place the Pre-1982 Lot of Record Policy on the website.

New Business

Mark Dayton letter to Local Government

The Town Board reviewed the letter from Governor Mark Dayton about open seats on the Metropolitan Council.

Clerk/ Treasurer Presentation

1. Resolution for the Cooperative Purchase of Election Equipment with Dakota County.

A motion by Supervisor Nancy Sauber: To approve the “Resolution for the Cooperative Purchase of Election Equipment” as presented with the information inserted as listed. The motion was seconded by Supervisor Brian Budenski. The motion carried by unanimous vote. The Township’s share of the cost of this equipment will need to be reflected in the upcoming budget.

The Clerk presented the following persons as possible election judges for the March 2011 Town Board Election: Julie Larson, Cheryl and Earl Schindeldecker, Marlene Swantek, Jody Arman-Jones, Pat Fossum, Mary Ann Michaels, Elaine Swedin and Rose Buchanger. A motion by Supervisor Nancy Sauber: To approve the Election Judges for the March election as presented by the Town Clerk. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

A motion by Supervisor Brian Budenski: To adjourn. Motion seconded by Supervisor Kenny Miller.

Meeting adjourned at 12:01 a.m.