

***Eureka Township***  
*Dakota County*  
*State of Minnesota*

Eureka Town Board Meetings  
January 11, 2010

**Call to Order**

Chair Jeff Otto called the meeting to order at 7:02 p.m. Members present were Supervisors Nancy Sauber, Brian Budenski, Jeff Otto and Supervisor Carrie Jennings. Supervisor Dan Rogers was absent. Clerk/Treasurer Nanett Sandstrom was present to record the minutes. Trevor Oliver, Township Attorney, was also present. See attached attendance sheet for additional persons in attendance.

The meeting opened with the Pledge of Allegiance.

**Approval of Agenda**

The following changes were made to the agenda:

Approval of the Minutes was moved after Other Business.

Other Business: Town Hall Cleaning was moved before Consultant Selection.

Old Business: under Other Updates the following items were listed:

- |                      |                             |
|----------------------|-----------------------------|
| 1. VRWJPO            | 2. Accessory Use/Gravel Pit |
| 3. CapX2020testimony | 4. Septic                   |

A motion by Supervisor Brian Budenski: To approve the revised agenda. Motion seconded by Supervisor Carrie Jennings. Motion carried by unanimous vote.

**Public Comment Period**

Persons from the audience commented on debris along 225<sup>th</sup> St. W., between Dodd and Highview Ave. There is also debris at 225<sup>th</sup> St. W. and Essex Ave.

**Treasurer's Report**

Checking Account Balance: \$417.98. Savings Account Balance: \$260,192.11. CD Account Balances: \$140,220.45. Total Account Balance: \$400,830.54.

Current Investments, Statement of Receipts and Balances, Cash Control Statement, Disbursements Register, and Receipts Register were reviewed by the Town Board. It was noted that there was no transaction SI-19. The Clerk checked the records. This number was missed. The transaction number does not exist.

A motion by Supervisor Jeff Otto: To accept the financial reports, including Current Investments, Statement of Receipts and Balances, Cash Control Statement, Disbursements Register, and Receipts Register. The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote.

A motion by Supervisor Brian Budenski: To approve the Treasurer's Report. The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote.

The Town Board reviewed the Net Pay Account Distribution and Claims List. Supervisor Jeff Otto requested a year-end summary of the Attorney Billing.

A motion by Supervisor Jeff Otto: To approve the Claims List as presented. The motion was seconded by Supervisor Nancy Sauber. Roll call vote was taken on the motion: Carrie Jennings- aye, Brian Budenski- aye, Jeff Otto-aye and Nancy Sauber- aye. The motion carried by unanimous vote.

**Bills and Receipts**

The Clerk presented the following bills for payment:

<b>Otte Excavating</b>	Road maintenance thru 12/31/09	<b>\$8,468.00</b>
<b>MNSPECT Inc.</b>	Inspection Services December 2009	<b>\$1,123.52</b>
<b>Dakota Electric Association</b>	Town Hall	<b>\$100.72</b>
<b>Frontier Communications</b>	Phone Service Town Hall	<b>\$125.00</b>
<b>Culligan</b>	Water Softener Town Hall	<b>\$23.51</b>
<b>Dick's Sanitation</b>	Garbage Service Town Hall	<b>\$40.27</b>
<b>Kelly &amp; Lemmons</b>	Legal Services thru December 31, 2009	<b>\$5,022.84</b>
<b>IRS</b>	Deposit 941 December 2009	<b>\$396.51</b>
<b>PERA</b>	Payroll Period 12/1/09 to 12/31/09	<b>\$260.33</b>
<b>Nanett Sandstrom</b>	Expenses 12/8/09 to 1/10/2010	<b>\$405.14</b>
<b>ECM Publishers</b>	Legal ad- elections	<b>\$35.00</b>
<b>MN Department of Labor</b>	4 <sup>th</sup> Qtr State Surcharge	<b>\$424.97</b>
<b>Dakota County Assoc of TNSP</b>	2010 Membership Dues	<b>\$968.08</b>
<b>North Cannon WMO</b>	2010 Membership Dues	<b>\$1,037.80</b>
<b>Healy Construction</b>	Repairs to Town Hall	<b>\$9,393.00</b>
<b>Stephen Amon</b>	Court Transcripts- Friedges	<b>\$1,596.00</b>
<b>State of MN</b>	Sales and Use Tax 2009	<b>\$4.00</b>
<b>Darrel Gilmer</b>	Septic Inspections	<b>\$600.00</b>
<b>Dakota County</b>	Septic Fees 4 <sup>th</sup> Qtr 2009	<b>\$120.00</b>
<b>USPS</b>	Newsletter mailing	<b>\$175.00</b>
<b>Carol Kelly</b>	PC Recorder- 12/1/09 to 12/31/09	<b>\$99.27</b>
<b>Nanett Sandstrom</b>	Clerk Payroll 12/1/09 to 12/31/09	<b><u>\$1,588.73</u></b>
<b>Total Bills Presented</b>		<b>\$32,007.69</b>

The following receipts were deposited in December of 2009:

• Local Permits

<b>Patriot Stove- Permit 09-52</b>	<b>\$45.50</b>	<b>Beaver Creek Co.- Permit 09-54</b>	<b>\$75.50</b>
<b>Klingberg Excavating- Septic- Sauber</b>	<b>\$280.00</b>	<b>Frontier Telephone- Utility Permit</b>	<b>\$25.00</b>
<b>Great Lakes Windows- Permit 09-53</b>	<b>\$100.50</b>	<b>Minnesota Exteriors-Permit 09-56</b>	<b>\$100.50</b>

• Other Receipts

<b>Dakota County- Current Tax</b>	<b>\$197,000.00</b>	<b>MN Dept of Finance- Market Value Credit</b>	<b>\$4,262.32</b>
<b>Eureka Sand &amp; Gravel- 1/2 Sauber Billing</b>	<b>\$5,093.16</b>	<b>MAT Agency- Ins. Claim</b>	<b>\$10,243.00</b>
<b>Dakota Electric- Capital Credits</b>	<b>\$7.10</b>	<b>Coreen Auge- Town Hall Rental</b>	<b>\$25.00</b>
<b>Dakota County- Delinquent Tax</b>	<b>\$3,480.67</b>	<b>Castle Rock Bank- Interest CD</b>	<b>\$409.47</b>
<b>Westwind Education- CUP Review</b>	<b>\$25.00</b>	<b>Castle Rock Bank- Interest Savings</b>	<b>\$777.92</b>
<b>Castle Rock Bank- Interest CD</b>	<b>\$371.81</b>		

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**TOTAL RECEIPTS AS OF DECEMBER 31, 2009** **\$222,322.45**

A motion by Supervisor Jeff Otto: To approve the Net Pay Account Distribution. The motion was seconded by Supervisor Nancy Sauber. Roll call vote was taken on the motion: Carrie Jennings- aye, Brian Budenski- aye, Jeff Otto-aye and Nancy Sauber- aye. The motion carried by unanimous vote.

### **Budget**

The Town Board reviewed the budget. A few corrections to the budget sheet were noted. Jeff Otto felt that some reorganization and additional subtotals added to the budget sheet would make it easier to read. He will make the changes and send them to the Clerk.

A Budget Meeting was set for January 19, 2010, at 7:00 p.m. The Town Board asked the Clerk to check with the County on the levy amount received so it would have the information for the budget meeting.

### **Contractor Time**

The Road Contractors were present to address road issues.

The Road Contractors were informed of the debris in the ditch along 225<sup>th</sup> St. W. The Planning Commission's Road Review was discussed. A copy was forwarded to the Contractors for their reference. Items in the report will be addressed in the spring.

### **Planning Commission, Land Use Permits and Related Items**

#### **A. Land Use & Zoning Issues**

##### **1. CUP Reviews**

###### **a. Wat Lao- Rick Sirouthy**

Rick Sirouthy was present to represent Wat Lao. They will be holding one religious festival in 2010, on June 19<sup>th</sup> and 20<sup>th</sup>. The Town Board asked that law enforcement be notified when the festival is taking place to help control traffic.

The Town Board had discussion with Rick on the construction of the fence without a permit. Rick did not know much about the project. He gave contact information on the project. Rick asked that he be copied on any communications. Supervisor Carrie Jennings will contact Wat Lao representatives on this issue. The Town Board discussed the Building Inspector's concerns with a building straddling two property lines. Carrie Jennings will check with the County. The set annual review fee of \$15.00 was paid.

#### **Sheriff's Deputy**

A Sheriff's Deputy stopped in to address Township concerns. He commented that they are called and informed of Wat Lao events. The Sheriff monitors the traffic issues. Those in attendance at the event are allowed to park on both sides of the County road.

#### **B. Other Business**

##### **1. Ag Preserve**

###### **a. Calvin Pflaum**

Calvin and Margaret Pflaum were present to represent their Agricultural Preserve request. Calvin's property is currently in Ag. Preserve; its 8-year term is expiring. He is requesting to place the land back into Ag. Preserve. Chair Jeff Otto signed the Ag. Preserve documents.

## **Citizen Business**

### **A. Citizen Complaint Issues**

#### **1. Phillipe Brothers**

Jerome and Jeff Phillipe were present to address the complaint received about their property regarding the activities there. They did not submit a written response to the complaint. The Building Inspector had visited the property earlier and had had a discussion with the Phillippes. They had registered as a Non-Conforming Business.

The Phillippes commented that the property is not used very often. The gates do not open before 11:00 a.m. They have a screener. They occasionally bring black dirt onto the property and screen it. They do not take anything off the property; there is no mining. The Building Inspector was there to see that there is no mining, they stated. They bring in 10-15 loads of topsoil per week and screen it. They have some mulch. They are very small: they do not have any employees; they do not advertise; they do not have a website. They are "kind of retired."

They stated that most of their project was cleaning up the mess at the property. They had to clean up piles of garbage and batteries. There was traffic involved with that clean-up, and they had concerns then that they may have had complaints about that.

None of the equipment leaves the property, except the dump trucks. The excavator and the screener stay there. The question was asked if there are semi's on the property. They stated that there are not semi's, but there are dump trucks. The dump trucks are parked in the building. There have been vehicles for sale there this year. The Phillippes stated that they have downsized and are getting smaller each year. They were asked what equipment is on the property. They replied that there are two dump trucks, an excavator, loader, bobcat, farm tractor, mower, screener and a couple of trailers. The screener is small enough to be portable, but they do not move it. It is never moved. They have had requests to take it somewhere else and screen there, but they do not do that, they stated. They used a lot of screening for seeding this year and for holes. They put in about 25 loads on the property this fall, and it is all seeded. After putting in the pond out front, they cultivated this fall and seeded. It had been very uneven and full of holes.

There is still a stockpile there. The stockpile is to be screened and will be used, if needed, for customers and for any projects on the farm. The Phillippes stated that they might have to put some berms around the edges of the property someday to keep out the corn that gets thrown onto the area that they mow. They plan to build a house there. The question was asked that, if a project involves others, is that for a residential project. The Phillippes said yes, that is true. They stated again that they are small and are almost semi-retired. There are no employees. The Phillippes stated that they, themselves, are the only people working on site. They, themselves, are the dump truck drivers. They do not advertise this property in the Yellow Pages. There is one in there for Phillipe Brothers in Prior Lake.

The Phillippes brought up the issue with the house that is on the property. They stated that the house on the property is used for storage for old furniture, windows, and taxes. After his visit to the property, Scott Qualle, the Building Inspector, had reported that they had told him that there is mold in the house. Scott had asked why there was no one living in the house, the Phillippes said, and they said that they get a lot of people that would like to rent it. They stated that the house is kind of falling down, with the ceiling, and that they would not want to live in it. They said at this meeting that they do not know that there is mold in the house; they have not been told that. They stated that they have not had anyone in to confirm that. They say that it is an excuse for not allowing anyone to live in the

house. They use the house for storage and do not want anyone living in it. They said that they told the Building Inspector that there was mold in the house because they were used to telling others that. They do not really know for sure that there is mold. The house is falling apart, but it is good storage. The water for use for the shop is in the house. If they tore down the house, they would have to do something about the water to be able to still use it. The well is outside the house; the pressure tank is in the house. They are heating just enough to keep it usable.

The non-conforming use registration states that there is only one dump truck. They now have two. There is currently wood chip storage there as well.

Jeff Otto stated that, from the evidence gathered from the complainant and from the Building Inspector, he does not see that there are issues outside what is represented in the Non-Conforming Registration. The issue of a second dump truck is not a significant deviation, Jeff stated.

Supervisor Jennings said that there are concerns with stockpiles being placed on properties. There are concerns with the storage and the size of piles. The issue of stockpiles not associated with mining is not something that is in the Ordinances now. If there is review of the mining ordinances, stockpiles, just by themselves, are something that can be regulated, as is shown in another township's ordinances that were sent as an example for review on another matter. Carrie offered that is something that could be looked into further.

The Phillippes stated that their pile is not really that big. They have piled it up so it is neat and to make a ramp so they can look over the farm. That is why the pile is as high as it is. It is not very wide; it is wide enough so they can get their excavator up on it, and that is about it. It could be lowered so that it would not be seen. It was stated that the same is true with their other pile. There is plenty of room to make a small berm around it.

Carrie Jennings commented that, if the property were in the Vermillion River Watershed, there would be rules that would apply to that pile because of the sediment that could be discharged from it. There would be rules about loose materials being stored like that without some kind of sediment fence or berm or some kind of control. The same would be true of the wood chips because of the run-off, Carrie said. The property is in the North Cannon River Watershed. That watershed does not have those kinds of regulations. There are potential water quality issues.

The Attorney was asked for any comment. Trevor Oliver asked what the primary use of the property is. Is it that they have cleaned it up and it is going to become just a residential property when they get it to that point, or is it something else that it is being used for? Outdoor storage, in itself, is generally looked at as a use if it goes with something. It was represented that there is a tree farm. Having some materials around to maintain trees is generally seen as an okay use. That would be accessory to a use that is all right under the zoning code. Stockpiles by themselves, though, not supporting anything, just as a primary use, there the Township would have a bit of a problem. Stockpiles that don't bear any relation to a use are a problem. The stockpiles themselves become important because they are on par with, are seen as, exactly the same as having extra sheds. If it had to be asked, what is happening on this property, what is number one? There is equipment storage and that has gone to there are some materials stored there as well to support something that is occurring on the site. Perhaps there could be another attempt to clarify.

The Phillippes replied that they want to use a lot of the dirt to enhance the property and its value. Someday they want to live there. There is storage for the excavating. It is a hobby farm. On the

weekends, they work on the farm. In response to a question, they stated that they have more than one property. There are two other property identification numbers, but it is one farm. A previous owner added on to the east; that is how there are separate property identification numbers.

The Attorney commented that a hobby farm is an acceptable use. Where does the use focus? He has heard that there is a tree farm, there is a hobby farm. Carrie added that there is an excavating company. Trevor said that the Township is probably still a couple of months from truly resolving exactly what is done with this issue. What is being done with the excavating company "stuff?" There is storage. The Phillippes said that they are actually closed down five or six months. Trevor said that what is going on during the warm months is what would raise issues. They bring in ten to fifteen loads of dirt to be screened. Is this in support of another commercial use? That is a problem. Is it for material to use to level out and landscape that property? That is not a problem. There are a couple of options for dealing with it. One of the options, and currently the Township is in the middle of waiting for a judge to resolve the issue, is that the Phillippes put in a registration for the excavating work. Having the outdoor screening, having the outdoor storage that relates to the excavating, would be an expansion. They could apply for that. A public hearing would be held on it. A permit could be granted if there were three votes in favor. Under the code, as written right now, that would be a way to solve the problem. Another way is to propose an amendment that the Township would allow stockpiling of dirt on property. Whether that would go through at the time it might be considered is a separate matter, but that would be another way to deal with it. Look at the zoning code; look at what fits. If it is a hobby farm, it would probably require some explanation about how ten to fifteen loads of dirt a week get applied to the hobby farm. The Phillippes said that it ties into the excavating. They said that they are a registered non-conforming use. If they had signs out and had UPS coming in there and had employees parked there, they would probably have an issue, too. Carrie Jennings said that the Phillippes had stated previously that they have dirt coming in from somewhere else, it is screened on site, it is stored on site, and then it is taken back. The Phillippes confirmed that is true sometimes. Carrie said it is not entirely used on the property. The Phillippes said, no, it is not entirely used on the property. If it is an issue, it would be better to just shut it down because it is not enough for them to concern themselves with at this point. They could just retire. It is just a hobby that they like to do. They want to keep the place looking good, bring in a couple loads, make a living, and pay their taxes.

Jeff Otto said that, given the scope of operation that is described and the evidence that has been presented on that, and the nature of the non-conforming use registration, he does not see that there is an issue at this point under the current watershed or Township ordinances. It truly sounds like a relatively incidental amount of activity from what has been represented and given the total scope of the property involved- at least until we get more clarity on some of those other issues. Carrie agreed that there needs to be more clarity on where the Township is going with accessory uses. The Phillippes said that the gate has never been opened before ten o'clock. There is nothing going on. They are working on the place, cleaning it up.

A motion by Supervisor Jeff Otto: To accept the explanation that has been presented and the description of activity and consider that the current complaint has been adequately responded to. The motion was seconded by Supervisor Brian Budenski.

Discussion of the motion followed.

Trevor stated that, if it was perceived that the stockpiling was a significant use of the property, and it has some outside commercial purpose, as opposed to a minimal, incidental part of rehabbing the

property as a weekend hobby farm use and prepping it as a home site, then it needs to be addressed. Aside from the Phillippes' suggestion that they might just shut down the commercial aspect because it is so very minimal that it is not enough for them to bother with it, there are two ways of addressing it. That could be to go through an application for an expansion and that process, or to possibly address it through means of the Ordinance to allow stockpiles. An application for an expansion of use would create a much better record, rather than just an explanation or presentation of documentation showing the level of activity in 2004 at a meeting.

The Phillippes have stated that they have customers. They have registered as a non-conforming use. They stated that they told the Board at the time of their registration what they were doing on their property. Excavating is dirt. They stated that nothing has changed since 2004. The screener is in the same spot with the dirt pile in front of it. They stated that they did not believe there was any expansion, but, rather, a retraction as their business has declined. Trevor said that on the non-conforming registration, they indicated that the business occupies no space outside of buildings. They gave the size of the space occupied by the business and the list of equipment. The question asking whether there was outdoor storage was answered "no." Relative to the registration information, adding screening and stockpiling would be an expansion. Whether it was inadvertent or not, that is what is registered. The stockpiling of the dirt that is not being used on the property is outside of the registration. The registration is the key as to whether an application is necessary.

Trevor Oliver stated that his preferred way to deal with this sort of thing, rather than case-by-case, would be to deal with it head-on through the Ordinances with a text amendment.

The Phillippes would not be foreclosed from bringing in evidence saying here is what the property looked like on September 7, 2004, and here is why we answered this question this way. Perhaps that issue could be resolved in the context of having an application for expansion.

There are storage pads with dividers to keep different types of soil separate that were added to the property after purchase. The Phillippes stated that those materials are for use in their landscaping on site.

Jeff restated his motion: To accept the explanation provided by the Phillippes that the uses fall within acceptable uses or are covered in the non-conforming use registration and that the commercial aspect is incidental to the overall uses of the property. Supervisor Brian Budenski seconded the motion. Discussion continued. Jeff stated that, based on the evidence presented, he does not believe that this is a significant use outside the uses allowed under the combination of the non-conforming use registration and the plans for the property itself. It addresses this particular complaint.

For purpose of discussion, Jeff added, that if the Town Board gets some further clarity in the next two months and makes a decision on how they want to go forward, then the Town Board may want to review this situation and suggest a better path on whatever direction evolves as it goes forward. He expressed the opinion that at this point there is not the ability to offer with clarity what exactly should be done, short of coming in for an expansion permit. In his opinion, this is not substantial enough to warrant going through that effort until the Board has further clarity as to what it wants to do across the Township. Nancy Sauber asked if that is something that can be addressed later. Jeff's response was that the possibility is, among the options that Trevor has discussed, there may be a simpler, more direct process to deal with a situation like this. That is not known at this point. Given that the Board is relatively close to a having a more solid basis legally to go forward and to come up with a more constructive solution for the Township, he would encourage the Board not to impose an expansion

permitting process right now because the Board is close to possibly having a different direction that might be easier. Jeff said that was what he was suggesting by his motion. There is nothing to prevent anybody from coming in and filing a complaint later that would reopen the issue. This isn't necessarily a once-and-for-all, but it is a way of saying let's set this aside for now until there is a clearer direction. The possibility may be that the Phillippes are in a limbo state for the Board right now and that there may be a better solution that wouldn't be as expensive and could be simpler than the current process. The Phillippes said that some kind of permit for five years would work for them. Jeff stated that the Phillippes are aware that this is an issue, that the commercial side is an issue. They have offered a possible solution of shutting down that aspect. Jeff stated his opinion that he does not think it would be fair to ask them to exercise that solution at this point when, within two months, four months, whatever the timeframe may be, there might be a better solution. The Phillippes said that there is nothing that will be going on at their property for the next months. Jeff stated that he does not have a concern that this is a run-away business that is going grow by leaps and bounds. If it were, the Phillippes would be back in. The Phillippes agreed. Jeff said that he was satisfied with the Phillippes' sincerity about what their plans are for the property and that this won't be an issue that needs to be addressed right this moment. He recommended exercising some caution and patience and seeing where this is headed to try to resolve the whole non-conforming issue. There may be a way, to consider at least, to bring this into a permitted process, so that the whole issue going forward on non-conforming gets settled. People could have a clear understanding and not have to worry about some future interpretation that says, no, this doesn't apply any more. Many of the businesses registered as non-conforming happen to be home occupations and it is not even an issue. They registered just to be safe. The Phillippes are one that does fall on the commercial side and it is appropriate that they did the registration that gives them the opportunity to apply for the expansion permit, to be considered for it, Jeff stated. Jeff said he was suggesting slowing down on taking specific action because of where this Board may be headed in the next few months yet this year. Carrie Jennings pointed out that this complaint came before the Board back in May, so as far as timing, the Board has been acting slowly on this. Jeff said that was for much the same reason as what he just described. Brian Budenski pointed out that there was no response from the Phillippes for some months. Jeff added that there were some moderating steps, using the Building Inspector to gather some information and to have a discussion with the Phillippes.

Vote was taken on the motion. 3 Supervisors voted aye. Supervisor Carrie Jennings voted nay because she felt that it is an expansion.

At 9:05 p.m. the Town Board took a brief recess. The meeting resumed at 9:18 p.m.

## **Other Business**

### **A. Planning Commission Update**

Planning Commission Vice Chair Ken Olstad updated the Town Board on Planning Commission happenings.

Mining Text Amendment: They have discussed the proposed mining text amendment. They suggested having mining industry advocates, such as the Aggregate Ready Mix Association and the National Asphalt Producers Association, speak to the group that would consist of the Commission and the Board.

Commercial Industrial Task Force: Previous applicants need to be contacted to see if they are still interested in being on the task force. Notice will be included in the next newsletter for additional task force applicants.

Ordinance Updates: The Planning Commission is working through the Ordinance updates. Ken highlighted some of the proposed changes. Items ready for the Attorney will be put together to be sent.

Comprehensive Plan Update: The Township is responding from comments received from Met Council and Metropolitan Airports Commission and other agencies. ISTS is basically how the Township will enforce county regulations. The Vermillion River Watershed Joint Powers Agreement information will be attached, and the Plan will state that the Township is working with the VRWJPO and the County on a joint agreement. They are working with TKDA on some final documentation.

Professional Services Policy: There is attorney-specific language that needs to be changed to address non-legal professional services. The Clerk was asked to send a word version of the policy to the Planning Commission

## **B. Newsletter**

The Attorney was asked the question whether the citizens have the ability to use ballot initiative or referendum vote. How many signatures would be needed on a petition to put a referendum on the ballot, i.e., such as changing the annual meeting to a date before the election?

The Attorney commented that, by State Statute, there are only a few things that are allowed to be placed on a ballot. Referendum vote could be to empower a Board, to combine the Clerk and the Treasurer offices, or the appointment of the Clerk rather than her election. The date of the annual meeting and election are set by State Statute. Items such as land use items are not Town election issues. Financial referendum would be 10% of voters voting in the last Town election. Statute 365.10 is specific to what electors can do. These would be things that increase taxes.

The draft of the newsletter was reviewed. The Town Board made comments and suggested corrections to the draft.

## **C. Town Hall Cleaning**

One proposal has been received for Town Hall cleaning. The Town Board will advertise in the newsletter and consider any bids at the next Town Board Meeting.

## **D. Consultant Selection**

The Town Board reviewed the Planning Commission's recommendation for engaging a planner: NAC, TKDA and Yaggy Colby, in that order. The Town Board reviewed the proposals from NAC and TKDA, the top two recommended. The hourly rates are the same. NAC is Lakeville's consultant. This could be a conflict of interest. TKDA's proposal is the most specific to the Township's needs; they have worked with the Township before and are familiar with it.

A motion by Supervisor Carrie Jennings: To select TKDA for the Eureka Township Commercial/Industrial Land Use Study. The motion was seconded by Supervisor Nancy Sauber. The motion carried by unanimous vote.

A motion by Supervisor Jeff Otto: To direct the Planning Commission and Task Force to move forward with the Commercial Industrial Task Force following option 2 as presented on page 2 of TKDA's proposal. Any extraordinary costs associated with the survey process should be brought to the Town Board for approval. A friendly amendment by Nancy Sauber: The Town Board supports the mailing costs of the survey, but it should not be by certified mail. Standard mailing

costs are what would be desired. Jeff Otto accepted the amendment. The motion was seconded by Supervisor Brian Budenski. The motion carried by unanimous vote.

#### **E. Audit 2009**

The Clerk received the audit proposal from Larson Allen. The Board discussed changing audit firms. They indicated that there are no problems with the current audit firm, but they felt that a new firm might bring a different perspective.

A motion by Supervisor Brian Budenski: To select Larson and Allen as Auditors for the audit of 2009. The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote.

#### **Minutes Approval**

The following corrections were made to the December 14, 2009, Town Board Meeting minutes: Page 1, Treasurer's Report, last sentence- change "affluent" to "fluid". Other minor spelling corrections were noted and changed. A motion by Supervisor Nancy Sauber: To approve the Minutes for the Eureka Town Board Meeting of December 14, 2009, as amended. The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote.

#### **Old Business**

##### **A. Misc Updates**

##### **1. Attorney Updates**

##### **Butch Hansen- 2<sup>nd</sup> Dwelling**

Butch Hansen had given the Clerk the Certificate of Occupancy he received from Bob Hegner. Inspection reports and payment of the permit have not been received. Butch Hansen was present. He stated that he had paid Bob Hegner directly for the permit and all inspections have been completed. When asked by Chair Otto, Butch agreed that he would provide a copy of the cancelled check. Butch has not yet filed the Restrictive Covenant with the County. Butch was asked to do so and to give the Township official proof of its having been recorded. Trevor Oliver will contact Bob Hegner on the Certificate of Occupancy and the payment of the permit.

##### **Hawkins**

Hawkins has worked out with the Building Inspector what needs to be done. The Hawkinses need to apply for a permit. The court case will be set aside as long as everything moves forward toward compliance.

##### **Hegner Issue**

No new progress. The Hansen issue will be added to the list. The Attorney is looking at misappropriation, hanging onto files and money that belongs to the Township.

##### **Sauber Trust- Sauber Mine Issue**

The letter to the Sauber trust has not been sent out yet. Trevor will draft the letter, and Supervisors Jeff Otto and Carrie Jennings will review it before it is sent to the Saubers.

##### **Mark Buffington**

The Building Inspector has received the permit application and has calculated the permit fee. Mr. Buffington has not paid for and picked up the permit. Mr. Buffington has dismissed the criminal case. He is still challenging the building permit issue. It is not a Town Board issue.

##### **Ordinance 7, Chapter 1, Fees**

The return of escrow was discussed. "...escrow will be returned to the applicant within thirty (30) days of final action on the matter by the Town Board." The Board agreed that 60 days would

allow for additional time for bills to come in before returning the unused escrow. This ordinance change will be recommended to the Planning Commission.

### **Met Council Building Permit for the Lift Station**

The Met Council has not paid for the building permit for the lift station. Township Ordinance requires payment in 30 days or the permit expires. The Township has paid the Building Inspector for his work thus far on the permit. The Clerk sent notice to the Met Council of Township Ordinance requirements. The Clerk will forward the email sent to Trevor for review, and he will check State Building Code on permit issuance.

### **Ordinance Fee Schedule**

In response to a question, the Attorney advised that the Mechanical and Plumbing Permit fees and penalties should be included in the Ordinance Fee Schedule.

The Attorney was asked whether the \$100 licensing fee shown in the schedule for a private kennel operator's license is too high, as the Township cannot make money on fees. Trevor commented that, in general, the license fee program is to be revenue-neutral. Not all specific fees are; some are high and some are low. It is for all fees in general, not individually. Some permits or licenses could require more cost than others.

### **Lot Splits and Lot Split Applications**

The Township does not have anything to say about lot splits or lot split applications. The County Auditor should not be sending them to the Township. The Township does not have subdivision regulations. Trevor explained the pros and cons of having a subdivision ordinance. Currently the Town Board does an informal review of a lot split as an advisory to zoning ordinance requirements. Trevor will draft a Resolution to be sent to the County Auditor and copied to the VRWJPO.

### **Permit Application Form**

Owner/Applicant signature vs. Contractor's (or other's) signature for permission to enter property for inspection and for responsibility for payment of plan review fee even if the project should not be done was discussed with the Attorney. Building codes deal with applicants, whether the Owner or the Authorized Representative. The contractor's contract authorizes contractors to pull a building permit on behalf of the owner. The signature line will be changed to Owner or Owner's Representative. The signature would grant access for inspections and the payment of the plan review fee.

A motion by Supervisor Nancy Sauber: That the Town Clerk incorporates the changes discussed into the Building Permit Application, so it is in accordance with what Mr. Oliver has recommended. The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote.

For informational purposes, the following information was presented: the Building Inspector is paid 75% of all penalty fees and 100% of all re-inspection fees. Plan review fees are 65% of the permit fee. The permit fee is calculated from the valuation. This information will be forwarded to the Planning Commission.

## **B. Other Updates**

### **1. Vermillion River Watershed Joint Powers Organization (VRWJPO)**

Supervisor Jeff Otto sent information to Mark Zabel, VRWJPO, about building right eligibilities in Eureka Township. Town Board and Planning Commission members also received this information. Jeff is waiting for a response from Mark. Jeff is continuing to work with the JPO on a joint agreement.

### **2. CAPX 2020 Testimony**

Supervisor Jeff Otto presented a draft letter to be sent to CAPX. The letter will be sent to the judge as written.

### **3. Exploring Accessory Use/Gravel Pit**

Dakota County Soil and Water does not need to be involved in the process. The VRWJPO needs more information before deciding if they need to be involved. Supervisor Carrie Jennings will check with DNR Minerals. She would like to talk to someone that regulates a plant. The Town Board discussed possible groups to be involved in the discussion.

Processing and stockpiling of soil was discussed and how it fits into current ordinances.

The Town Board will continue collecting information on the proposed text amendment request. Ames will be asked for a waiver to the 60-day Rule.

### **Madden, 60-day Rule Waiver**

The waiver on their cluster request has not been received. The Clerk was asked to follow up on this request.

### **Westwind Education, State Education Compliance Information**

The Clerk was asked to forward this information to the Town Board for their review as mentioned at the January Town Board Meeting.

### **Plastic Pipe Structure- Charles Roberts**

The Clerk was contacted by Mr. Roberts about the letter sent to him on his plastic pipe structure. Mr. Roberts indicated that he was going to attend a Town Board meeting and talk to the Town Board. He was not present at tonight's meeting.

### **Posting of Planning Commission Meetings**

The Clerk was reminded to post all Planning Commission Meetings as Special Town Board Meetings in case there is a quorum of Town Board Members present.

### **Flag Pole Lighting**

Supervisor Carrie Jennings expressed concerns that the flag pole lights have been on during the day. Supervisor Brian Budenski volunteered to clean off the electric eyes. Carrie asked that he find out what wattage the lights are. Carrie suggested that the flag be folded and taken down at night. Citizens at the Annual Meeting asked that the flag pole be lit. Supervisor Jeff Otto researched alternate lighting methods. LED lights are becoming more popular.

## **New Business**

### **1. Elections**

In 2011, Dakota County is planning on purchasing new voting machines. They will have a cost-sharing agreement, same as with the last purchase.

**Clerk/Treasurer Presentation**

The Clerk asked who was contacting TKDA to let them know that they have been selected as a consultant service. Supervisor Carrie Jennings, as Professional Services Contact, volunteered to contact TKDA.

A motion by Supervisor Nancy Sauber: To adjourn. Motion seconded by Supervisor Brian Budenski. The motion carried by unanimous vote.

Meeting was adjourned at 12:21 a.m.