

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

Eureka Town Board Meeting  
January 12, 2009

**Call to Order**

Chair Jeff Otto called the meeting to order at 7:00 pm. Members present were Supervisors Cory Behrendt, Brian Budenski, Jeff Otto and Dan Rogers. Clerk/Treasurer Nanett Sandstrom was present to record the minutes.

The meeting opened with the Pledge of Allegiance

**Approval of Agenda**

The following additions and changes were made to the agenda:

- Old Business: 5. Commercial Industrial Study
- 6. Road Haul Ordinance

A motion by Supervisor Cory Behrendt: To approve the agenda as amended. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote of Supervisors present.

**Audience Comment Period**

No public comments were made.

**Approval of the Minutes**

The following correction was made on page 7- last sentence of first paragraph changed to: Supervisor Dan Rogers stated that he did not agree with the truck loading statement made by Mr. Hansen. Page 8- under **Minutes**, second paragraph change “commented” to “comment”

A motion by Supervisor Cory Behrendt: To approve the Town Board Meeting Minutes of December 08 as amended. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote of Supervisors present.

The Special Meeting Minutes of January 7, 2008 were not presented to the Town Board for approval.

**Treasurer Report**

Checking Account Balance \$633.85. Savings Account Balance \$241,699.57. CD Account Balances \$162,885.47. Total Account Balance \$405,218.89.

A motion by Supervisor Cory Behrendt: To approve the Treasurer’s Report of January 12, 2009 as presented. Motion seconded by Supervisor Brian Budenski. Role call vote was taken on the motion. Supervisor Dan Rogers- Aye, Supervisor Cory Behrendt- Aye, Supervisor Jeff Otto- Aye, Supervisor Brian Budenski- Aye. Motion carried by unanimous vote of Supervisors present.

**Bills and Receipts**

The clerk presented the following bills for payment:

<b>Otte Excavating</b>	Thru 12/31/2008	<b>\$12,743.00</b>
<b>MNSPECT</b>	Thru 12/31/2008	<b>\$13,990.91</b>
<b>Dakota Electric Association</b>	Town Hall	<b>\$87.40</b>
<b>Frontier Communications</b>	Phone Service Town Hall	<b>\$124.58</b>
<b>Culligan</b>	Water Softener Town Hall	<b>\$23.43</b>
<b>Dick's Sanitation</b>	Garbage Service	<b>\$37.76</b>
<b>Kelly &amp; Lemmons</b>	Legal Services thru 12/31/08	<b>\$2,221.45</b>
<b>Anderson Rock &amp; Lime</b>	Chips/ Salt	<b>\$1,375.00</b>
<b>Dakota County Assoc. of Townships</b>	Onsite sewage treatment maintenance	<b>\$892.38</b>
<b>M&amp;R Sign</b>	RASP Signs	<b>\$248.94</b>
<b>MN Department of Labor</b>	State Surcharge 4 <sup>th</sup> Qtr 2008	<b>\$853.40</b>
<b>PERA</b>	Pay period 12/1/08 to 12/31/08	<b>\$251.66</b>
<b>IRS</b>	Deposit 941 January 2009	<b>\$431.33</b>
<b>United States Postal Service</b>	On Account- Newsletter	<b>\$175.00</b>
<b>Nanett Sandstrom</b>	Expenses 12/1 to 12/31/08	<b>\$211.05</b>
<b>Dakota County Treasurer</b>	Septic Payment 4 <sup>th</sup> Qtr	<b>\$40.00</b>
<b>Nanett Sandstrom</b>	Clerk payroll 12/1/08 to 12/31/08	<b>\$1,566.99</b>
<b>Teresa Koentopf</b>	Office assistant payroll 12/1/08 to 12/31/08	<b>\$267.24</b>
<b>ECM Publishers</b>	Legal Ad	<b>\$35.00</b>
<b>Total Bills Presented</b>		<b>\$35576.52</b>

The following receipts were deposited in December:

• Local Permits

<b>Ralph Hanson- Klausen Permit 08-49</b>	<b>\$100.50</b>	<b>B&amp;H Develop- Kelly Permit 08-51</b>	<b>\$768.13</b>
<b>Professional Cont.- Prairie Creek 08-50</b>	<b>\$5,630.96</b>	<b>Lofgren – Permit 08-52</b>	<b>\$65.50</b>
<b>Energy Concepts- Diffley Permit 08-46</b>	<b>\$770.59</b>	<b>Crest Exterior- Leine permit 08-53</b>	<b>\$100.50</b>

• Other Receipts

<b>Teresa Koentopf–Town Hall Rental</b>	<b>\$50.00</b>	<b>Dakota Electric- Capital Credits</b>	<b>\$11.35</b>
<b>Teresa Koentopf–Town Hall Rental</b>	<b>\$25.00</b>	<b>Dakota County- Delinquent tax</b>	<b>\$561.39</b>
<b>Vermillion Kennels- Kennel License</b>	<b>\$100.00</b>	<b>State of MN- Market Value Credit</b>	<b>\$7,627.30</b>
<b>Brosseth- Additional Escrow</b>	<b>\$2,062.11</b>	<b>Castle Rock Bank- Interest on CD</b>	<b>\$353.96</b>
<b>Dakota County- Current Tax</b>	<b>\$203,000.00</b>	<b>Castle Rock Bank- Interest on CD</b>	<b>\$388.28</b>
<b>City of Lakeville- Tax- annexed</b>	<b>\$201.85</b>	<b>Castle Rock Bank- Interest on Savings</b>	<b>\$731.69</b>
<b>City of Lakeville- annexation</b>	<b>\$5,000.00</b>		

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**TOTAL RECEIPTS DEPOSITED IN DECEMBER 2008** **\$227,549.11**

Current Investments, Disbursements Register, Receipts Register, Statement of Receipts, and Balances, Cash Control Statement, and the Claims list were reviewed by the Town Board.

Supervisor Cory Behrendt reviewed the attorney bill. It was noted that \$300 of the General Counsel bill were charges towards the Sauber Mine/ Gravel.

A motion by Supervisor Cory Behrendt: to approve the Bills and Receipts as presented. Motion seconded by Supervisor Brian Budenski. Motion carried with unanimous vote. Role call vote was taken on the motion at the end of the meeting to approve the claims. Supervisor Brian Budenski- Aye, Supervisor Jeff Otto- Aye, Supervisor Cory Behrendt- Aye and Supervisor Dan Rogers - Aye. Motion carried by unanimous vote of Supervisors present.

## **Budget**

The Town Board reviewed the budget.

## **Contractor Time**

The Road Contractor was not present due to the weather conditions. They were present later in the meeting to discuss road business.

Icy road conditions were discussed. Road supervisors received several phone calls about icy roads. The road contractor was asked to be more proactive in icy conditions.

## **Planning Commission, land use permits and related items**

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

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

##### **a. Dave Tonsager- 25700 Granite Path, Farmington**

Dave and Amy Tonsager requested to place their land consisting of Property ID 13-02100-012-75 (10.10 acres) & 13-02100-011-75 (34.64 acres) into Ag Preserve. The total acreage exceeds the 40 acre minimum for Ag Preserve land. Mr. Tonsager's property contains approximately 6 acres of tillable property. The Statute governing Ag Preserve does not specify a minimum acreage for tillable property. It does allow for wetlands and forested lands. This property primarily consists of forested acreage.

A motion by Supervisor Cory Behrendt: To approve the Ag Preserve request for Dave and Amy Tonsager of Granite Path as presented. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote of Supervisors present.

##### **b. Gary Smith- 4628 235<sup>th</sup> St. W., Farmington**

Gary Smith requested to place his land consisting of 159 acre, Property ID 13-01200-011-75 into Ag. Preserve. This property has previously been placed into Ag Preserve.

A motion by Supervisor Cory Behrendt: To approve the Ag Preserve application for Gary Smith of 235<sup>th</sup> St as presented. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote of Supervisors present.

#### **2. CUP Reviews**

##### **a. Wat Lao of MN**

Rick Sirouthy represented Wat Lao in their annual CUP review. Mr. Sirouthy presented the dates of June 20<sup>th</sup> & 21<sup>st</sup> for their Wat Lao Celebration. They are expecting approximately 500 guests coming and going over a period of time during the 2 day celebration.

Chair Jeff Otto opened the floor for public comment. He asked three times for public comments, hearing none, the comment period was closed.

There are no plans for changes in the operation or size of the facility.

A motion by Supervisor Cory Behrendt: To accept the review for the Wat Lao Minnesota located at 22605 Cedar Ave for the 2009 year. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote of Supervisors present.

#### **b. Westwind Education**

Tom Chellberg represented Westwind Schools for their CUP review. He presented the Town Board with evidence of compliance with MN State Reporting Requirements for Education for the 2008- 2009 school year. A copy of the documents was given to the clerk for the file. All of the students attending the school live in Lakeville. There are typically 3 -4 cars parked on the property during normal operating hours. There were 3 events in the past year that more cars were present.

Chair Jeff Otto opened the floor for public comment.

Ken Olstad asked if any notifications were made to the Township or the Sheriff Department for any events. (Township- more than 100 people in attendance, Sheriff Department- if parking on the roadway)

Tom Chellberg commented that they have not had any events that have triggered the notification requirements. The Sheriff Department was contacted on a couple events.

Chair Jeff Otto asked for any additional public comment, three times, hearing none the floor was closed to public comments.

A motion by Supervisor Cory Behrendt: To accept the review of Westwind Education located at 8215 240<sup>th</sup> St. for the year 2009. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote of Supervisors present.

#### **Citizen Business**

##### **A. John Storlie- Alleged CUP Violations**

John Storlie- Owner, Tom Ryan- General Contractor and Carol Cooper- John Storlie's attorney was present to address this issue. A written response was not presented to the Town Board, they preferred to discuss this issue directly with the Town Board.

Carol Cooper addressed the Town Board. She commented that they are very respectful to their concerns about water pollution. This relates to the safety of the citizens. John Storlie would never do anything to harm the drinking water or violate his conditional use permit. Carol researched everything that was sited in the letter and the DNR site sheet that was attached to the letter. She looked at EPA regulations about spray painting, MPCA regulations, State Statutes on clean water and was not able to find anything that applied to this situation that might cause a violation.

Carol commented that there are different versions of the events that occurred on this day. She spoke with the painter. He said the grey primer was painted in a different location. Yellow paint was being applied to the piece of equipment. Carol present pictures of the equipment being painted, showing yellow paint being applied. John Storlie took pictures of the overspray on the ground. The picture shows in the distance of the open water. The overspray did not get anywhere near the water. The paint being used is water based, fast drying latex acrylic paint. It dries before it hits the ground. Carol did research that this is the same type of paint to paint the Golden Gate Bridge and bridges in Minnesota. The paint used is friendly to the environment. Carol feels that the people John hired took all appropriate measures to safe guard the safety of our residents and to

do the things the right way. EPA regulations require painters to build an enclosure to paint in certain circumstances. They do not apply in this situation, it was a small operation and this type of paint would not require an enclosure. The environment dangers with paint mainly deal with air pollution. The danger comes with paints with a high VOC (Volatile Organic Compound). The paint used has a low VOC. The best way to dispose of extra paint is to allow it to dry and then throw it in the trash. When paint is dry it is not a threat to the environment. Carol described storm paint stenciling. Paint is sprayed on a stencil near the storm drains.

Carol Cooper does not feel that the ordinances quoted in the letter do not apply. Ordinance 6, Chapter 13, Section 2, G.- No operating permits have been issued by State or Federal Agencies. If no operating permits have been issued by State or Federal agencies then this part of the ordinance can not be violated. "The Town Board may require other standards it deems necessary." To her knowledge there are no other standards that apply. She is not aware of any Township Ordinance that prohibits spray painting. Property owners can have their house spray painted. By having a CUP placed on a piece of property does not take a right away from the property owner. Unless it is written in the CUP that spray painting is not allowed, then the CUP holder has the same rights as any other property owner in the Township. Chapter 13, provision S.- Surface water. The concern is did any of the paint get to the water. It probably did not. No one knows. The water was not tested before the painting or after the painting. Carol talked to environmental consultants and explained the situation. They indicated that there would be no harm to the water. The paint would have dried before it reached the water, even if it didn't there was not enough to cause any harm. One consultant told her that in order to cause harm to the water a bucket of paint would need to be poured into the water. There is no lead contained in the paint.

Supervisor Carrie Jennings was not able to attend tonight's meeting. She was not able to make it back into Town because of the weather. Supervisor Jeff Otto asked that Carol Cooper leave the consultants contact information with him to forward to Supervisor Carrie Jennings to provide her the opportunity for a follow up conversation, if she so desires.

Carol Cooper asked that the response received by Supervisor Carrie Jennings from the MPCA be forwarded to them for their review.

Carol Cooper commented that Supervisor Carrie Jennings was quite rude to Mr. Storlie. They feel that the issue was not handled correctly. John Storlie has asked that Supervisor Carrie Jennings not be allowed on his property again. They understand the Town Board has the right to inspect the mining property at various times. They asked that any Board inspections on the mining operations be handled by a member other than Supervisor Carrie Jennings. They also felt that since Supervisor Carrie Jennings is the main complainant and stated on at least two occasions that the spray painting is a CUP violation. They feel that she should recuse herself from voting on the issue whether there was an ordinance violation. John is entitled to people that are disinterested and unbiased.

Tom Ryan hired the painters. He commented that the machine is 10 years old. It was originally painted with non lead paint. It was sandblasted and painted with non lead paint in 2003 and once again painted with non lead paint in 2008.

The pictures provided show about 3 feet of overspray on the ground, where the bucket was laying on the ground. Supervisor Jeff Otto asked that they provide the name and paint specs for the record.

Chair Jeff Otto asked for better communications. Before any activities that might be perceived as a pollution risk take place that the Board is advised in advance to ward off future complaints.

Motion seconded by Supervisor Cory Behrendt: To acknowledge that Mr. Storlie was present and presented facts about the alleged violations that were detailed in the letter, sent by the Township and the Town Board does not find that there has been CUP violation or specific Ordinance violation and the Board does not find any information that would suggest environmental concerns have happened. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote of Supervisors present.

Supervisor Cory Behrendt asked for the record that the minutes reflect that Mr. Storlie did state that he wishes to not have Supervisor Carrie Jennings on the property again. He disagrees with the statements that Ms. Jennings had made about Mr. Storlie and suggested that she abstain from voting on this issue. Supervisor Carrie Jennings will be asked to send the feedback received from MPCA on the issue.

## **B. Sauber Pit Reclamation**

The Board received a letter December 29, 2008 from Gerald Duffy representing Eureka Sand & Gravel, raising and questioning several issues. The Board had a response letter drafted by Supervisor Carrie Jennings, Township Engineer Ron Quanbeck of TDKA and Township Attorney Trevor Oliver. *See attached letters dated December 29, 2008 from Siegel, Brill, Greupner, Duffy & Foster P.A., & January 12, 2009 from Kelly & Lemmons P.A.*

Kenny Miller owner of Eureka Sand & Gravel was present and addressed the Town Board.

A motion by Supervisor Jeff Otto: To ask the attorney to send out the letter as drafted. Motion seconded by Supervisor Brian Budenski. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote of Supervisors present.

## **Deputy Sheriff**

Deputy Sheriff Sean Qualy introduced himself. He will be patrolling the roads in the area. Weight restrictions on Township roads were discussed. Weight restrictions are generally hit hard in the spring.

## **C. Citizen Complaint Issues**

### **1. Charles Hansen 2<sup>nd</sup> Dwelling**

The Town Board received a request for an update on the Charles Hansen 2<sup>nd</sup> dwelling situation.

Chair Jeff Otto commented to correct a reference in an email he had sent out referring to Jim Sheldon as the attorney. It was Bob Alsop who represented the Township as assigned by Minnesota Association of Townships.

Supervisor Cory Behrendt is waiting to get documentation from the attorney on the case. The case against the Township has been dropped, which gives more room to discuss the case, because we are no longer in litigation. During the process the Town Board had come to general terms with Mr. Hansen about a list of steps for property ownership to put a covenant on the property for a period of time, closing on 30 years which is renewable. Along with other items Mr. Alsop had laid out.

Supervisor Brian Budenski is working with Mr. Hansen to complete these. If needed we will be using the current Township Attorney rather than Mr. Alsop, since the case has been dismissed and we are working on a billable rate with Mr. Alsop.

It was June 11<sup>th</sup> 2008 when Mr. Hansen had received his first copy of the documents. Once the lawsuit was dropped the Town Board voted 3 to 2 not to sue, to settle. Brian talked to Mr. Hansen on July 22<sup>nd</sup>, October 2<sup>nd</sup> and January 12, 2009. They will be getting together this month to discuss the documents. It is an extensive document. This issue is being worked on, getting somewhere and will come to a conclusion shortly. Mr. Hansen does not need to work with Mr. Alsop. He is out of the picture.

A copy of the minutes will be sent to the complainant summarizing the discussion on the issue.

## **2.Vermillion Kennels**

The Town Board received a packet of information dated January 6, 2009 addressing possible Ordinance and CUP violations at Vermillion Kennels, operated and owned by Andrea and Jeffrey Krapu, 24315 Dodd Blvd. *See attached complaint letter dated January 6, 2009.*

The Town Board will follow normal procedure and practices to deal with this complaint. A cover letter will be send to owners Andrea and Jeffrey Krapu with a request to please provide a written response to the allegations within 30 days of receipt of the letter. The entire packet will be included with the letter. This issue will be discussed at the next Board meeting following the receipt of the response.

## **Other Business**

### **A. Brosseth Mine Interim Use Permit**

The Town Board had three documents before them. Document 1 was a memorandum from TKDA, Township Engineer. Document 2 a Draft Record of Decision updated for January 12, 2009 Town Board Meeting. Document 3 a Eureka Township Resolution for consideration and possibly act on tonight.

The Memorandum from TKDA has to do with the Environment Assessment Worksheet (EAW) and determination as to whether the review process for the EAW indicated if there should be a full Environmental Impact Statement (EIS) or not. It includes a recommendation for monitoring activities. The final recommendation "The Engineer and Planner recommend that the Town adopt a resolution making a negative declaration that an EIS is not required for the Kelly Aggregate Inc. project and that the Town approve the recommendation as the basis for the negative declaration." *see attached memo from TKDA dated December 31, 2008.*

Draft Record of Decision for consideration presents Findings of Fact associated with the EAW and descriptive responses and mitigation measures as deemed appropriate for the various points of fact, these relate to physical impacts of surface waters, erosion sedimentation, and traffic. The conclusion states three key components: 1. Eureka Township has fulfilled all applicable procedural requirements of law and rule regarding the determination of need for an Environmental Impact Statement (EIS) for the proposed Kelly Aggregate Inc. Mine. 2. Pursuant to Minnesota Rules Part 4410.770 Subpart 6 & 7 the proposed project has been evaluated by the public and Eureka Township RGU to determine potential environmental effects. Based on the findings and record in this matter Eureka Township has determined that the proposed Kelly Aggregate Inc. Mine project does not have the potential for significant environmental effects. The Town Board concurrent by Resolution No. 75 declaring a negative need for an Environment Impact Statement attached to this record of

decision. 3. Pursuant to Minnesota Rules Part 4410.1770 Subpart 5 a copy of this RGU record of decision is being provided within 5 days to all persons on the MEQB distribution list, to persons commenting and to persons requesting a copy. *See attached document dated January 12, 2009.*

The Planning Commission reviewed the documents at their last meeting and forwarded this with their recommendation of approval.

Eureka Township Resolution No. 75 A Resolution Declaring a Negative Need for an Environmental Impact Statement (EIS) for the Kelly Aggregate Inc. Mine. *See attached resolution.*

Motion by Supervisor Cory Behrendt: To approve Eureka Township Resolution No. 75 A Resolution Declaring a negative need for an Environment Impact Statement (EIS) for Kelly Aggregate Mine as presented. Motion seconded by Dan Rogers. Motion carried by unanimous vote of Supervisors present.

Vermillion Watershed JPO must perform a Land Alternation Plan (LAP) review. The LAP is scheduled for Thursday at 1:00 pm at the Western Service Center. Supervisor Carrie Jennings and Planning Commission Chair Sharon Buckley will be present at the LAP representing the Township.

Planning Commission has set a public hearing on the application for the IUP for Monday, January 26, 2009 at 7:00 pm.

## **B. Proposed Amendment Mining Ordinance**

The proposed ordinance amendment is a follow up to feedback received from a previous public hearing related to this mining project proposal. It has to do with the design of the berm. The current mining ordinance is very rigid in requiring an eight foot berm. On the particular circumstance along 235<sup>th</sup> St there was considerable interest from adjacent residents that a different berm design be allowed. The preference is for having a shorter berm with trees on top to provide a more effective screening. *See attached proposed ordinance amendment.*

A Motion by Supervisor Cory Behrendt to pass the Ordinance Amending the Mining Ordinance No. 6 regarding performance standards for earthen berms is to be forwarded to the Planning Commission for public hearing and response for approval and to appoint Supervisor Jeff Otto and Cory Behrendt as a committee to consider additional language clarifying the Ordinance for presentation. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote of Supervisors present.

A Public Hearing for the proposed amendment was set for Monday, February 2<sup>nd</sup> at 6:30 pm.

## **Item 1. Old Business**

**Friedges/ Country Stone** Issue was brought to the table

At the December meeting the Town Board had decided to continue discussions and negotiations with Country Stone, who is the operator of the facility on the Friedges property. In the ensuing time between that Board Meeting and tonight the Town Board received a request for review of some of the background information related to interpretation of the legal non conforming sections of the Ordinance. In the interest of being sure that the Town Board was acting appropriate, the information was forwarded to the Township Attorney for review. To make sure that no information had been missed in their review and advice to the Town Board regarding interpretation the Ordinance. Chair Jeff Otto received written response from the attorney that indicates that they were aware of specific references that were made to the minutes prior to the adoption of the Ordinance in 2004. The Attorney's interpretation of the ordinance did not change. The course of action recommended and

agreed upon at the December Town Board Meeting remains the same. Supervisor Jeff Otto recommended moving forward with setting up a meeting with all parties to continue negotiations to achieve further resolution on other aspects of the complaint against them.

Jim Sauber and Georgie Molitor will be kept informed of progress and be included in a meeting to participate in discussion on this matter.

Chair Jeff Otto expressed the desire for himself and Supervisor Brian Budenski to schedule a walk around of the facility to talk about issues, such as berming and other items that might be further mitigating measures to help improve the situation.

Jim Sauber asked what the goal of the meeting would be.

Chair Jeff Otto explained the desire is to identify further issues to be addressed and discussed to see what common ground we can work things out on. A letter will be composed to open that aspect of the dialog.

Supervisor Cory Behrendt commented that it was his understanding that the list in the November 14, 2005 minutes, that reflects conditions. We are asking them to agree to and comply with these in some legal form. His feelings are that we should move forward with filing suit that was talked about 2 months ago. Supervisor Brian Budenski agreed with Supervisor Cory Behrendt.

Supervisor Cory Behrendt commented leaving aside the legal nonconforming issue, the Township is allowing them to exist as a business, following the guidelines they had committed to in the process of getting the building permit. If they won't agree to that, to conform to the commitments they made and level of operation, the question goes back to the right they have to exist there.

The issue of expansion and the issue of existence are two separate issues. Once the Town Board has made its final determination, failure to comply would be a means for shutdown.

Supervisor Cory Behrendt commented that he doesn't see this so much as a negotiation as opposed to this is where we expect you to be and to operate, conforming to these guidelines. We are not agreeing to give them a Conditional Use Permit, but we agreeing in legal terms to put on conditions of their operations based on the commitments.

The concern of their actual legal status opens up substantial ramifications in terms of singling out one use and not addressing the entire class.

What has been established in a letter from Country Stone prior to the December meeting is that they acknowledged a baseline, based on the September 2004 standing that they had as a business. The level of activity they had at that point in time. This is an established baseline to deal with issues of expansion. An avenue offered to them is to pursue the proper procedure as outlined in our Ordinance for expansion, including a public hearing.

Supervisor Cory Behrendt commented that he would not give approval of negotiating different terms or types of operation. The negotiation is to live up to their commitment, bring the business into compliance.

The baseline has been established, it is the date that the ordinance was put into place, September 7, 2004. The sense of negotiations is that door was left open to go through the proper process to seek a

proper approval through our Ordinance to expand. They may or not be allowed to expand. This process requires a public hearing and due process as specified in the Ordinance. The negotiation is if they have an interest in pursuing this avenue.

The other course is that they need to comply with Township Ordinances. The building was not deemed an expansion it was deemed an alteration, taking what was there and moving it inside.

The goal of the Town Board is to bring the business into compliance with Township Ordinances not the path of continuing the business as it is today. What is on the table is a complaint of an expansion of use and a commitment of not going there. The Town Board is not challenging if the use is nonconforming. The Town Board wants to make it very clear that they will not be allowed to continue the operation as it was run last year. This use was an expansion to the business.

A motion by Supervisor Cory Behrendt: That the discussion on the Friedges/ Country Stone or the Friedges operation with the discussion with the two Township Supervisors, Representative Attorneys and the Local Citizens be directed to be with the intention of compliance to the impact of the business. The negotiations should be to that extent and not to be furthering about how and if the building can or should expand.

Supervisor Cory Behrendt clarified his intention for the motion. The negotiations should be about conforming to the operations that were there at the time of the Ordinance passage including the alteration of the building and commitments thereof. That should be the discussion "about compliance". Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote of Town Board members present.

### **C. Planning Commission Update**

1. Capital Improvement recommendations: Counter top extension, doorbell type alert at the door, venting system into secure storage area, and energy saving window treatments.
2. Joint Purchase Agreement with the County to provide maintenance for Township road street signs. Sharon Buckley spoke with Kristi Sebastian this agreement is not renewable after December 31, 2009. It is intended to be a bridge until the Township has its own contractor in place for maintenance of street signs. The Township would need to have the Uniform Street Naming and Addressing Procedure adopted to participate in this program.
3. The Planning Commission has scheduled a public hearing on January 26, 2009 for the mining application. A Special Planning Commission Meeting on January 29, 2009 for Ordinance update discussion.

### **Item C. Other Business**

#### **Requested refund building permit- Mike Woehrle**

Mike Woehrle, 24215 Idalia Ave. Lakeville(Property ID #13-24660-020-03) Applied and was granted a building permit for a pole barn on 8/11/08. Building permit No. 08-23 was issued on 8/20/08 for \$1,308.73. Mr. Woehrle contacted the clerk as asked if he could be issued a refund for the permit. He was unable to build the pole building before winter and was unsure if he would be moving forward with the project due to the economy. The Clerk contacted Building Inspector Scott Qualle on a possible refund. *See attached e-mail message dated January 12, 2009 from Scott Qualle.*

A motion by Supervisor Cory Behrendt: To approve the refund of up to 80% per building code for the Woehrle building permit, contingent upon them getting the refund request in prior to the expiration of the permit and to direct the clerk to make the applicant aware of the information. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote of Supervisors present.

### **Capital Improvements**

Capital Improvement projects suggested by the Planning Commission will be addressed at the budget meeting.

The Town Board scheduled the Budget Meeting for Tuesday, January 27, 2009 at 7:00 pm.

### **D. SSTS Administrative Training- 2009 Edition**

The Building Inspector has one of his employees trained last year. At least one person on staff with the Township should be trained. The Town Board asked that a Planning Commission member be trained.

### **E. ALF Ambulance**

The Town Board received a letter and an agreement from ALF Ambulance for continued services.

A motion by Supervisor Cory Behrendt: To approve the ALF Ambulance provision for Ambulance Service Agreement as presented. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote of Supervisors present.

### **F. Comp Plan**

The Town Board has received some responses from local authorities on the Comp Plan. A letter was received from the Met Council that the parts of the plan are incomplete and further review has been suspended pending receipt of the following: Implementation, Individual Sewage Treatment Systems, Surface Water Management and Transportation. *See attached letter from Met Council dated January 2, 2009.* The largest piece to address is the Surface Water Management Plan.

TKDA submitted a letter, per Supervisor Cory Behrendt request of costs associated with updating the Comp Plan to address Met Council's comments. The cost of updates does not include the Surface Water Management Plan. *See Letter from TKDA dated January 8, 2009.*

The Township does not have a zoning map that has been adopted by Ordinance.

Supervisor Cory Behrendt will contact Berry Farrington, TKDA on follow up questions from the Town Board. TKDA will not be asked to do any further work at this time. The Town board will wait for further comments from local authorities before proceeding with updates.

The surface management plan needs to be completed. The Comp Plan committee may be asked to reform and to work on the Comp Plan/ Surface Water Management Plan.

### **G. Rural Collaborative Plan**

The Township is considering the Dakota County Rural Collaborative Plan that was created by the Vermillion River JPO. The North Cannon River Watershed has not approved the Dakota County Rural Collaborative Plan. It is unclear if the Township can create and develop its own Surface Water Management Plan or if they have to adopt the Dakota County Rural Collaborative Plan. The

Town Board would like to be more general in nature than the Dakota County Plan. Supervisor Cory Behrendt will check on the requirements and adoption of a plan.

To retain water resources permitting authority must adopt the Rural Collaborative Local Water Management Plan before February 23, 2009. Water resource management ordinances must be adopted by April 23, 2009.

#### **H. 2009 Board of Appeals & Equalization**

Supervisor Dan Rogers is trained for Board of Appeals & Equalization. At this time no additional training opportunities are available.

Dakota County has scheduled the Board of Appeals & Equalization for April 21, 2009 from 10:30-11:30 am.

#### **I. Dakota County Uniform Street Naming Ordinance**

A motion by Supervisor Cory Behrendt: To approve and sign the Joint Purchase Agreement between Dakota County and Eureka Township for the installation and maintenance of Township Road Street name signs as presented. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote.

The agreement can not be implemented until the Uniform Street Naming and Addressing procedure is adopted by ordinance.

Address assignments to new homes were discussed. It is unclear if the county will help the Township issue new addresses without adopting the USNAS procedure.

### **Old Business**

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

##### **1. Friedges Country Stone**

Previously addressed.

##### **2. North Cannon WMO**

No update, Supervisor Carrie Jennings was not present.

##### **3. Northwest Northfield Highway Corridor Study**

The Town Board received a letter from Dakota County Physical Development Division that they are going to back off mapping in the Township at this time. *See attached letter dated December 16, 2008.*

##### **4. CapX2020**

CapX2020 has filed their Routing Application. The preferred route enters the Township on 250<sup>th</sup> St. east to Dodd, goes North on Dodd to 240<sup>th</sup> St. It goes due east following 240<sup>th</sup> St or equivalent across the Township. The alternate route stays on Pillsbury to County 86. It stays on County 86 to Fairgreen Ave. It then jogs south past the Township border. The Town Board still would prefer that it be routed completely outside the Township.

### **Abandoned vehicles on Township Roads**

Supervisor Dan Rogers reported that he had contacted the Sheriff's Department on the abandoned vehicle in Eureka Estates. He did not feel that the Sheriff Department took the report seriously.

He advised that in the next case of reporting an abandoned vehicle that an official letter is sent from the Town Clerk. The vehicle has been moved. Now a truck is parked in the same location.

#### **5. Commercial Industrial Study**

Supervisor Cory Behrendt presented a draft and timeline for the study. Notice of the study will be presented in the Township Newsletter. This item will be taken up at the February Town Board Meeting.

#### **6. Road Haul Ordinance**

Castle Rock sent an estimate of Dean Johnson's time and cost to write the Road Haul Ordinance. The cost estimate was between \$450 and \$625. The cost is well within the allotted cost \$500 approved by the Town Board at their December Town Board Meeting.

### **New Business:**

#### **1. Elections**

The clerk attended an election meeting. Dakota County Election Officials brought up the possibility of Townships moving their March elections to November. At this time no one in Dakota County has changed to November Elections. This would save programming and election costs. Supervisor positions would be a 4 year term.

To move the March election to November, it would need to be added as a question on the March Election Ballot.

The possibility of changing the elections to November will be presented to the citizens at the Annual Meeting in March.

### **Clerk/ Treasurer Presentation**

Information on the two items on the agenda under Clerk/ Treasurer Presentation was provided by the clerk. The clerk also received a CD on the CapX2020 that is available for viewing from the clerk.

### **Newsletter**

Town Board Supervisors will get additional newsletter items to the editor. A final draft will be sent out for review prior to its publication.

A motion by Supervisor Jeff Otto: To adjourn. Motion seconded by Supervisor Cory Behrendt

Meeting adjourned at 11:12 pm.