

Eureka Township
Dakota County
State of Minnesota

Eureka Town Board Meeting
October 10, 2006

Call to Order

Chair Cory Behrendt called the regular monthly meeting of Eureka Township to order at 7:00 PM. Present were Supervisors Cory Behrendt, Gloria Belzer, Gary Smith, Cheryl Monson, Dan Rogers and Clerk/Treasurer Nanett Champlain, to record the minutes.

The meeting opened with the Pledge of Allegiance.

Approval of Agenda

The following additions were made to the agenda:

Old Business: J. Hawkins Residence
New Business: R. Representation & Liability
 S. Statutes
 T. Great River Energy
 U. Hansen Building move in

A motion by Supervisor Dan Rogers: To approve the agenda as amended. Motion seconded by Supervisor Gary Smith. Motion carried by unanimous vote.

Audience Comment Period

Approval of Minutes

The following addition was made to the July 19, 2006 minutes: Supervisor Gloria Belzer recused herself from voting and further discussion excluding herself from the closed meeting. A motion by Supervisor Dan Rogers: To approve the July 19, 2006 Town Board Meeting minutes as amended. Motion seconded by Supervisor Gloria Belzer. The motion carried by unanimous vote.

A motion by Supervisor Gary Smith: To approve the closed meeting minutes of July 19, 2006 as presented. Motion seconded by Cory Behrendt. Supervisor Gloria Belzer abstained from voting since she was not part of the meeting. The motion carried by unanimous vote.

A motion by Supervisor Gloria Belzer: To approve the September 11, 2006 Town Board Meeting minutes as presented. Motion seconded by Cory Behrendt. The motion carried by unanimous vote.

The following addition was made to the September 18, 2006 Special Town Board Meeting: There were hands up in the audience, Supervisor Dan Rogers acknowledged them but the Town Board did not take audience comments. A motion by Cory Behrendt: To approve the September 19, 2006 Special Meeting minutes as amended. Motion seconded by Supervisor Gloria Belzer. The motion carried by unanimous vote.

Treasurer's Report

Treasurer Nanett Champlain reported that there is \$2,925.02 in checking, \$129,135.62 in the savings account and \$145,346.89 in CD investments. Overall total is \$277,407.53.

Motion by Supervisor Dan Rogers: To approve the treasurer report as presented. Motion seconded by Supervisor Gloria Belzer. The motion carried by unanimous vote.

Bills and Receipts

Clerk/Treasurer Nanett Champlain presented the following bills for payment:

September 2006 Bills for October 2006

BeSure Inspection Services	Inspection services Thru September 30, 2006	\$2,048.40
Farm Road Services	Services thru September 30, 2006	\$5,792.00
Farm Road Services	brush removal Eureka Estates	\$3,685.00
Farm Road Services	kill vegetation Eureka Estates	\$342.20
Dakota Electric		\$52.36
Frontier Communications	952-469-3736	\$113.41
Culligan	134684	\$23.38
Dick's Sanitation		\$35.87
Dean Monson Landscape	mow town hall September 2006	\$405.00
Victor Lundeen Company	checks, envelopes	\$303.15
MAT Agency	Ins. Package	\$2,404.00
Sharon Buckley	training	\$50.00
Nanett Champlain	expenses thru September 30, 2006	\$337.22
Dakota County Treasurer-Auditor	3rd qtr septic fees	\$160.00
McNamara Contracting	3 hard Road Surface contracts	\$84,000.00
Earl Schindeldecker	election judge- primary 2006	\$121.70
Cheryl Schindeldecker	election judge primary 2006	\$55.00
Barb Bachman	election judge primary 2006	\$194.92
Pat Fossum	election judge primary 2006	\$131.70
Marlys Shirley	election judge primary 2006	\$95.00
Mary Lou Ruh	election judge primary 2006	\$80.00
Marlene Swantek	election judge primary 2006	\$95.00
Carolyn Papke	election judge primary 2006	\$115.92
IRS		\$2,757.36
IRS		\$282.34
State of Minnesota		\$390.34
Nanett Champlain	payroll September 1 to 30, 2006	\$1,952.06
Pat Fossum	cleaning service September 2006	\$64.64
PERA		\$322.06
		<hr/> \$106,410.03

The following receipts were deposited in September:

- **Building Permits**

Margo Lackore- <i>building permit 06-08-018</i>	\$804.04	Larry Frahm- <i>Zoning permit Application</i>	\$25.00
John Wolf <i>Building Permit 06-09-019</i>	\$587.26	Merlyn Schonning- <i>Zoning permit Appl.</i>	\$25.00
Tim Kuntz- <i>Building Permit 06-09-020</i>	\$760.56	Dan Ryan- <i>Zoning permit Application</i>	\$25.00
Madden Trust <i>Zoning permit Appl</i>	\$25.00	Dave Tousignant- <i>move building</i>	\$150.00
Madden Trust <i>Zoning Ag build insp.</i>	\$25.00	Dave Tousignant- <i>Zoning permit Appl.</i>	\$25.00
Dylan Larson- <i>Zoning permit Appl</i>	\$25.00		

- **Other Receipts**

Jeff Riegel- <i>Rasp Sign</i>	\$11.63	Castle Rock Bank- <i>Interest CD</i>	\$248.68
Mike Greco- <i>History Appreciation Fund</i>	\$250.00	Castle Rock Bank- <i>Interest CD</i>	\$348.21
Ray Swedeen- <i>History Appreciation Fund</i>	\$250.00	Castle Rock Bank- <i>Interest Savings</i>	\$1,523.85
Cash- <i>History Appreciation Fund</i>	\$10.00	Gloria Belzer- <i>History Appreciation Fund</i>	\$100.00
Georgie Molitor- <i>History Appreciation Fund</i>	\$40.00		

TOTAL RECEIPTS DEPOSITED IN SEPTEMBER

\$5,259.23

The Township did not receive an attorney bills this month, it was the second month in a row that a bill has not been received. The clerk will check with the attorney.

Two payments were made to the Federal Government (electronic payment) in September. One for 3rd quarter 941 federal tax liability (Federal tax for payroll deductions), and one for a penalty assessed for the 2nd quarter 941. These two payments were added to October claims list. Both quarters the total payroll deductions for the quarter exceeded the minimum for quarterly tax payments. The clerk will start to make monthly deposits for federal tax liability to avoid future penalties. The clerk has requested a waiver of the penalties from the federal government. There will be another penalty assessed for the 3rd quarter.

Dean Monson Landscape has been obtained to mow the Township properties. Supervisor Cheryl Monson is employed by Dean Monson Landscape.

A motion by Cory Behrendt: To adopt resolution #52 authorizing a contract with the interested officer under Minn. Stat. § 471.88, subd. 5. Motion seconded by Supervisor Dan Rogers. Supervisor Cheryl Monson abstained from the vote. Motion carried by unanimous vote.

Supervisor Cheryl Monson signed the “Affidavit of Official Interest in a Claim” (Minn. Stat §471.89, sub. 3) for mowing of the Town hall properties before receiving payment of services.

A motion by Supervisor Gloria Belzer: To pay the bills and receipts as presented. Motion seconded by Supervisor Gary Smith. The motion carried by unanimous vote.

Transfer of Funds

The clerk reported that the Road and Bridge fund has a negative balance of \$38,465.85 and the Town Hall fund has a negative balance of \$7,023.07. The second half of 2006 taxes is deposited to the Township the first part of December.

A motion by Supervisor Gloria Belzer: To transfer from the General Fund \$38,465.85 to the Road and Bridge Fund and to transfer from the General Fund \$7,023.07 into the Town Hall Fund to

bring the balances to Zero. Motion seconded by Supervisor Gary Smith. The motion carried by unanimous vote.

Budget

The Town Board reviewed the budget.

Planning Commission, land use permits and related items

Consent agenda Items

A motion by Supervisor Gloria Belzer: To approve the consent items of Dylan Larson, James and Mary Madden Trust, Larry Frahm, Jr., Merlin Schonning and Dan Ryan. Motion seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

Dylan Larson- 24510 Highview Ave. Farmington (Property ID# 13-01600-020-51) requested an Agricultural Compliance Permit for 4 grain bins 30', 27', 18' & 18' diameter with 25' sidewalls. An Agriculture Building Exemption Certification form was filed with the clerk. Planning Commission member Mike Greco inspected the site.

Zoning Compliance Permit No. 000998 was issued for \$50.00

James and Mary Madden Trust- 10250 225th St W. Lakeville (Property ID# 13-00600-011-52) requested an Agricultural Compliance Permit for a 32' x 54' pole barn with 10' sidewalls for Ag use/ animals. An Agriculture Building Exemption Certification form was filed with the clerk. Planning Commission Sharon Buckley will inspect the site.

Zoning Compliance Permit No. 000999 was issued for \$50.00

Larry Frahm, Jr.- 24451 Iceland Path, Lakeville (Property ID# 13-24660-060-08) requested a building permit for a 40' x 64' pole shed with 12' sidewalls for personal use.

Building Permit No. 06-10-022 was issued for \$612.26

Merlyn Schonning/ Schonning Farms Inc.- 26165 Galaxie Ave, (Property ID# 13-02700-010-01) requested a Agricultural Compliance Permit for a 30' x 100' Poly-Tex greenhouse with 8' sidewalls to be used as an ag building/ animals. An Agriculture Building Exemption Certification form was filed with the clerk. Planning Commission member Rich Stevens will inspect the site.

Zoning Compliance Permit No. 000997 was issued for \$50.00

Dan Ryan- 7417 280th St W Farmington (Property ID# 13-03400-011-53) requested a building permit for a 24' x 30' pole shed with 10' side walls for personal use.

Building Permit No. 06-10-022 was issued for \$612.26

South Cedar Garden Center for a conditional use sign permit

South Cedar Greenhouse requested a conditional use permit for a 7' x 8' + 10' round top sign with interior fluorescent lighting. The sign placement is 60' from the centerline of Cedar Ave. Dakota County approved this setback. Documentation of total square footage of signs was presented: A total of 4 signs are on the property. A= Entrance sign 16 sq.ft. B= New illuminated advertising sign 105 sq.ft. , C= 32 sq.ft. and D= Entrance sign 16 sq.ft. The total square footage of signage on property is 169. The planning Commission recommended four conditions. The Town Board reviewed the Planning Commission Recommendations. A motion by Supervisor Gloria Belzer: To approve the South Cedar Garden Center sign at 2311 Cedar Ave. S., Farmington for a Conditional Use Permit as presented with the four conditions that were recommended by the Planning Commission and agreed upon by the Town Board. Motion seconded by Supervisor Dan Rogers.

The permit fees for the sign are doubled; the sign was installed without a permit.

Sign Fee Permit #06-08-014 was issued for \$286.25

The motion carried by unanimous vote. *See attached Finding of Facts, Conclusion of Law and Order for this request.*

Dennis Ripley- 9460 235th St W, Lakeville (Property ID # 13-00800-020-50)

Robert Ripley, Dennis Ripley's son presented additional comment from his attorney on the buildability of the lot in question. No new evidence has been presented. The variance request is still before the Town Board, no date has been set for the public hearing. The Planning Commission and Town Board do not feel this request fall under state statute variance requirements.

Mr. Ripley believes that he has new evidence to present to the Town Board to persuade them that the lot is buildable as it stands and that a variance is not needed. The Town Board asked him to present the evidence. His attorney, Dan McGrath was present; Mr. McGrath spoke to the Town Board. The survey was filed with the Office of Survey. It was not recorded in the county recorders office. The Contract for Deed is not recorded with the County Recorders Office as individual lots. In Ordinance 3, Chapter 3, Section 1. F., there are no references to "recorded lots of record", it simply identifies as "a lot". Section 1. A thru E. requirements are met. The concern is whether this lot would have been eligible for a building right on or before April 12, 1982. The survey file was filed with the Office of Surveyor in 1977. This survey supports that it is eligible, under the definition of lot. "Lot of Record" does not show up in this section- it is not relevant to whether it is a buildable lot. It meets the requirements set forth in Section 1.

Tillges subdivided the 80 acre parcel and subdivided it into 10 parcels. The other 9 parcels have a home built on them. At the time Mr. Friedges intentions were that all 10 parcels would be buildable lots.

Chair, Cory Behrendt, asked how you account for the deed written in 1977 which describes the lot as a single lot. There is only one lot of record. To create another lot, a split need to be done; thus creating a new lot of record after the April 12, 1982.

Mr. Ripley is arguing that it does not need to be a "Lot of Record" to qualify as a buildable lot.

Supervisor Gloria Belzer stated that she felt that the intention of the Board was not to prevent Mr. Ripley from building a home. The Board's responsibility is to determine that the house would be built on a legal buildable lot.

The Town Board agreed to obtain legal advice on this issue. Mr. Ripley's documentation will be forwarded to the Township attorney for comment. The Township attorney's opinion will be forwarded to Mr. Ripley's attorney for discussion. The Township attorney will present the Town Board with a recommendation to resolve the issue.

The Town Board sent a letter to Dennis Ripley on September 15, 2006 to extend the 60 day deadline to December 26, 2006. The Planning Commission will be asked to hold off on scheduling a public hearing until after the November 13, 2006 Town Board Meeting.

Further discussion on Mr. Ripley's request will take place at the November 13, 2006 Town Board Meeting.

Robert Ripley asked if he could move forward with the lot split. The Town Board felt that he should hold off with the lot split at this time. Mr. Ripley verbally withdrew his lot split request.

David Tousignant- 23590 Cedar Ave. S Farmington (13-01000-012-56 & 13-01000-013-20)-

David Tousignant requested a permit to move the old Town hall to his property and a building permit for a foundation for the building. Mr. Tousignant is in the process of obtaining an estimate for the moving of the building. The building must be inspected by two Town Board members and the building inspector prior to obtaining the moving permit.

If Mr. Tousignant moves forward with obtaining the building, he must present the building permit request to the Planning Commission.

A motion by Cory Behrendt: To approve building moving permit request as presented. Motion seconded by Supervisor Gloria Belzer. A friendly amendment by Supervisor Cheryl Monson: if it does not work out for Mr. Tousignant to move the building the application fee be refunded. Supervisor Cory Behrendt and Supervisor Gloria Belzer accepted the amendment. Vote was taken on the amendment, it passed. A vote was taken on the motion, the motion carried by unanimous vote. Supervisor Cheryl Monson, Supervisor Gary Smith and Building Inspector Bob Hegner will inspect the building.

DNR Public Water Work Permit for Dry Hydrants

The DNR is asking if the Town Board has any comments or concerns with the dry hydrant work permit application. There are no plans at this time to install any dry hydrants in the area. The Town Board did not have any comments or concerns to pass onto the DNR at this time.

Planning Commission Update

Franco Fiorillo, AirLake Airport representative asked to be placed on the Planning Commission agenda on a monthly basis to communicate concerns and interests through the strategic envisioning and Comp Plan update process. The Town Board asked the Planning Commission to present updates on AirLake airport to the Town Board as necessary.

The Planning Commission asked for clarification on the procedure for communicating ordinance violations to the Town Board. All complaints should be put in writing by an individual. The Planning Commission should put complaint requests in documentation as a motion to present to the Town Board.

Contractor Time

Road Contract Update

Amy Nielsen represented Farm Road Services. Farm Road Services has not signed the road contract agreement. Amy Nielsen stated that three bond companies would not place a bond, because the contract is poorly written. The contract is too one sided. It favors the Township too much. Chair Cory Behrendt will contact Castle Rock Agency regarding the bonding issue. Originally the bonding company was only asking for two separate one year contracts. With this agreement the bonding was to be issued.

Chair Cory Behrendt asked Amy Nielsen, representing Chris Nielsen, if Farm Road Services was willing to continue and honor the price as accepted by the Town Board. Amy Nielsen agreed that Farm Services would continue maintenance at the bid price. If bonding cannot be obtained, the unsigned contract is not valid and the Town Board will continue with the contracting process.

Roads

Chub Lake Boat Access

Rocks dumped into the landing at Chub Lake. Contacts were made with different departments. All contact information will be turned over to Supervisor Dan Rogers. He will follow up on the

activities in the area. If an access to the lake is going to be allowed, the maintenance of the access needs to be appropriate.

Old Business

Lighting of Flags

Supervisor Gary Smith received a quote from K-Dan Electric, \$825.00 for 2 flood lights on the corner of the building, pointing toward the flags. (with photo cells). There was no further discussion.

Art Appreciation

Carolyn Papke recommended appointing Donna Rollins as Exhibit Coordinator. A tentative schedule for art display was presented.

A motion by Cory Behrendt: To appoint Donna Rollins as interim exhibit Coordinator until March of 2007 at which time a permanent coordinator will be appointed. Motion seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

Supervisor Cheryl Monson objected to displaying pottery in the Town hall. She felt we are only allowing artwork to be displayed on the wall. We should stay with pictures. She is concerned with discrimination and what people think is art.

MinnCan Update

None

Country Joe Racing Update

The Town Board needs to decide how it wants to proceed. There are activities that are still producing noise. There was general agreement that these activities were going to cease. The third building that was permitted as an ag building is not being used as an ag building. County Joe Race marketing shows that the building is being used as part of the race business. The third building transformed from storage when not in use, for a non profit hangout for kids of all ages.

Supervisor Cory Behrendt will draft a letter to be sent to Joe Miller, Country Joe Racing. The Town Board is looking for written agreement of noise abatement and the use of the third building. The draft of the letter will be presented to the Town Board for approval before it is sent.

Complaint Update

Letters were previously sent to property owners in Eureka Estates. The Township attorney sent letters to 4 property owners. The clerk sent letters to 3 property owners. The Township has not received response from any of these property owners. Bill Schweich, a property owner who received a letter from the Township attorney, was present at the meeting. He addressed the complaint and his concerns; he feels his property is in compliance with Township ordinances. He was asked to put his comments into writing, to include photos if possible and submit them to the Town Board. Supervisor Cory Behrendt will review and update Eureka complaint list.

Hawkins Residence

Hawkins property, 8674 240th St. W., Lakeville - Brian Watson, Dakota County Soil and Water contacted Supervisor Cheryl Monson and reported that there has been some previous activity of excavating, some old and some new, there is a small pond. He is not sighting him for any violations, but he is on notice, that activities on the property will be watched. Brian will be sending the Township written notice.

24185 Denmark Ave- Lackore tree cutting

Supervisor Dan Rogers and Supervisor Cheryl Monson have not been in contact with Lackores.

Schedule Board and Planning Commission Meeting with Attorney

A meeting was scheduled for Thursday, November 2, 2006 at 7:00 pm.

Sauber Family Mine

The Town Board received a letter of request from the Sauber Trust relating to the reclamation of their mining operation by Eureka Sand and Gravel. Supervisor Cory Behrendt contacted Kenny Miller of Eureka Sand and Gravel. They are in the process of reclamation and there is no action needed by the Town Board at this time. The Town Board is aware of the concern and the Town Board may need to follow up in the future. Kenny Miller was present and addressed the Town Board. He is moving forward with reclamation. Mr. Miller is aware of the concerns.

Lackore lot layout for building permit

The lot layout for Lackore's pole building was received by the Town clerk. Their building permit has been issued by the building inspector.

New Business

ALF Ambulance

Not present

AirLake Airport- Franco Fiorillo

Franco Fiorillo was not present. He is an owner of the fixed based operation at the airport. He has a strong interest in having the hangers built at the airport. The first step in the process is for MAC to adopt its long range plan.

Charles 'Butch' Hansen vs. Eureka

The Township has received litigation. It has been referred to Kennedy & Graven. The Township will be defending its position Attorney/ client meetings discussing strategy will be closed to the public. Attorney Bob Alsop is working through details and preparing a response.

Resolution for Dakota County CIP

The county requested that the Township submit a resolution of support from the Township on transportation projects addressed in the CIP. If a Town Board member wishes to submit comments, they may do so individually. The Town Board will not submit a resolution.

Request for review and comments public water work permit application 2007-0147

(Addressed under Planning Commission business, dry hydrants)

A motion by Supervisor Cheryl Monson: to adjourn and continue the meeting another night. The motion died due to the lack of a second on the motion.

Mail Slot for Town Hall

Table until November

Newsletter

Editor, Carolyn Papke presented the draft of the newsletter. The Town Board reviewed the draft, changes were discussed and approved.

Data Practices Official

Table until November

Kids Voting Project

Northfield Schools is asking permission to set up a kid voting booth at the General Election in November. At the previous General Election, the Township allowed such activity. It did not interfere with the voting. The Town Board approved the activity.

Appoint Election Judges for General Election

The clerk presented the following list of persons to serve as election judges for the November 7, 2006 General Election: Mary Michels, Cheryl Schindeldecker, Barb Bachman, Pat Fossum, Marlys Shirley, Mary Lou Ruh, Marlene Swantek, Carolyn Papke, Mike Greco, Julie Pflaum, Jody Arman- Jones and Shelly Clubb. A motion by Supervisor Cory Behrendt: To approve the election judges a presented. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote.

Ethnics of Local Government Officials

Supervisor Gloria Belzer reported that the MAT Legal seminar is October 12 & 13, 2006. She will be attending the October 12th session at her own expense. Gloria will also be attending the October 26, 2006 Rural Road Planning Meeting offered by the Met Council.

Dakota County Officers Meeting Report

Table until November

Gary Smith- address the Town Board

Supervisor Gary Smith presented the Town Board with a letter of resignation from his position as Road Supervisor for the Township. Supervisor Cory Behrendt will temporary fill the position of Road Supervisor.

Friedges property

The Town Board received a letter of concern from a citizen over the current use of the Friedges property and possible sale of the property. The Town Board will send a letter to Friedges questioning the ownership and use of the property. This item was tabled until the November 13, 2006 Town Board Meeting

Phillipe property use verification

The Town Board received a letter from a citizen who is concerned over activities taking place on property owned by Phillipe's located at 280th St W & Jamaica Ave.(PID# 13-03100-011-52) The citizen is concerned that a business is being established on this property. This item will be discussed at the November 13, 2006 Town Board Meeting.

Hansen Building Move in

Charles "Butch" Hansen has moved a building within the Township without obtaining a permit. Mr. Hansen stated that it is a portable building, it is on skids. He stated the building did not require a permit when it was built. It was not moved "into" the Township, it was moved "within" the Township. It will not be placed on a permanent foundation. It is a lean-to for livestock. The building is 14' x 30'. The Town Board discussed if a moving permit is required.

This item was tabled until the November 12, 2006, Town Board Meeting.

MAT Educational Conference

The clerk requested to attend the educational conference in Duluth, November 16, 17, 18, 2006.

A motion by Supervisor Gary Smith: To pay for the clerk's room and conference- 2 nights/ 2 day conference for the clerk. Motion seconded by Supervisor Cheryl Monson. Motion carried by unanimous vote.

Telephone system- Town hall

The clerk requested to purchase a new phone and caller ID Service. A motion by Supervisor Cory Behrendt: To authorize the purchase a new phone system for the Town Hall/ caller ID capable.

Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote. The clerk will check the cost of adding caller ID.

Clerk/ Treasurer Presentation

Listed items were presented for informational purposes. Information is available from the clerk.

At 11:02 pm, A motion by Supervisor Cheryl Monson: To adjourn. Motion seconded by Supervisor Gloria Belzer.

Meeting adjourned at 11:02 pm.