

Eureka Township

Dakota County

State of Minnesota

Eureka Town Board Meeting
November 10, 2008

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, Carrie Jennings, Dan Rogers and Clerk/Treasurer Nanett Sandstrom, 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: B. Misc. Updates: 5. Petter Licenses Update
6. Road Hauling Ordinance
7. Chub Lake Shoulder Rebuild Status
8. CapX2020 Update

New Business: C. Commercial/ Industrial Study Proposal

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

Audience Comment Period

There were no public comments.

Deputy Sheriff Phouthaivanh Sourignavong was present and introduced herself. Chair Jeff Otto mentioned an abandoned vehicle in Eureka Estates. The Sheriff's Office will check on the abandoned vehicle.

Minutes

The following corrections were made to the October 14, 2008 Town Board Meeting Minutes:

Page 5- first paragraph- third line should read: "fit into the current ordinance updates:

Other Business: A. Storlie Pit- add: "Possible" CUP Violations. Page 8- letter "e" is missing in wetland. Page 9- E. Mount Olivet Agreement: second sentence should read "period and averages out to about a 3%"

A motion by Supervisor Jeff Otto: To approve the Town Board Meeting Minutes of October 14, 2008 as revised. Motion seconded by Supervisor Carrie Jennings. Motion carried by unanimous vote.

Treasurer Report

Checking Account Balance \$4,497.97. Savings Account Balance \$68,825.46. CD Account Balances \$162,143.23. Total Account Balance \$235,466.66

A motion by Supervisor Cory Behrendt: To approve the Treasurer's Report of November 10, 2008 as presented. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote.

Bills and Receipts

The clerk presented the following bills for payment:

Otte Excavating	Thru October 31, 2008	\$12,107.00
MNSPECT	Thru October 31, 2008	\$1,194.99
Dakota Electric Association	Town Hall	\$59.97
Frontier Communications	Phone Service Town Hall	\$126.51
Culligan	Water Softener Town Hall	\$23.43
Dick's Sanitation	Garbage Service	\$38.43
Dubbles Lawn Service	Town Hall Mowing October 2008	\$100.00
TKDA	Prairie Creek School 911 thru 9/27/08	\$3,096.95
TKDA	Eureka Sand & Gravel thru 9/27/08	\$810.72
TKDA	Brosseth mine 8/31- 9/27/08	\$4,145.27
Kelly & Lemmons	Thru October 31, 2008	\$1,256.36
Lakeville Printing	newsletter	\$240.45
MAT Agency	Work Comp	\$266.00
MAT Agency	Insurance package	\$2,292.00
Minnesota Assn of Townships	Training- Nanett	\$110.00
Metro Sales	service	\$413.08
ALF Ambulance	Services 1/1/08 thru 6/30/08	\$5,025.60
Bischel Building	Refund double building permit fee	\$100.00
Nanett Sandstrom	Expenses 10/1 to 10/31/08	\$243.73
Cheryl Schindeldecker 923	Judge 10.5	\$105.00
Earl Schindeldecker	Judge 8.5 hrs	\$85.00
Mike Greco	Judge 10 hrs	\$120.00
Marlys Shirley	Judge 8 hrs, training, mile 28.5	\$125.48
Marlene Swantek	Judge 15 hrs	\$150.00
Elaine Swedin	Judge 8 hrs	\$80.00
Jody Arman Jones	Judge 8 hours	\$80.00
Pat Fossum	Judge 9.5 hrs	\$95.00
Gloria Belzer	Judge 6 hrs	\$60.00
James Cooper	Judge 7 hrs	\$70.00
Julie Larson	Judge 8.5 hrs, training, mile 17	\$119.95
Mary Lou Ruh	Judge 7 hrs, training, 19 miles	\$106.12
Cynthia Hansen	Judge 8 hrs	\$80.00
Mary Ann Michels	Judge 5 hrs	\$50.00
Internal Revenue Service	Deposit 941 November 2008	\$620.71
PERA	Pay period 10/1/08 - 10/31/08	\$310.15
Nanett Sandstrom	Pay period 10/1/08 - 10/31/08	\$1,653.09
Total Bills Presented		\$35,560.99

The following receipts were deposited in October:

• **Local Permits**

Minnesota Energy- Utility Permit	\$25.00	Lou Ann Welflen- 2 Ag permits	\$100.00
Gary Gunderson- Building Permit	\$1,316.87	Earl Schindeldecker- Re-roof	\$100.50
Julie Larson- Permit fee	\$30.00	Carrie Jennings- Re-roof	\$100.50
Todd Auge- Building permit	\$201.35	Prairie Creek- Application fee	\$25.00
James Streit – Building Permit	\$45.50	Sharon Buckley- Plumb. permit	\$75.50
Modern Heating- Building Permit	\$641.12	Hoelt Signs- Building Permit	\$776.85
Elder Jones- Grossman Permit	\$100.50		

• Other Receipts

Karin Grossman–Newsletter Ad	\$35.00	Castle Rock Bank- Interest CD	\$614.31
Mount Olivet- Dust Control	\$232.56	Met Council-Dust Control	\$800.00
Butch Hansen- Copy of Ordinances	\$100.00	MN Dept Fin.- Market Value Credit	\$7,507.78
Castle Rock Bank- Interest CD	\$194.07	MN Energy- Escrow	\$500.00
Castle Rock Bank- Interest CD	\$382.85		

TOTAL RECEIPTS DEPOSITED IN OCTOBER 2008 **\$13,905.26**

Supervisor Brian Budenski inspected the sites for Minnesota Energy Utility Permits 08-10-10 and 08-11-11 that were completed in the Township. He signed off on the site inspections. Chair Jeff Otto signed the permits, authorizing the bond release for both projects.

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

The Clerk explained that the Road & Bridge Fund has been deficient in September, October and November. The General Fund will be short in the month on November. Temporary operating transfers were made to the Road & Bridge Fund from the Hard Road Escrow Fund to cover the bills. Transfers from the Consultant Fund will be made to cover the General Fund deficits. These are temporary adjustments to facilitate cash flow and are not a reflection on the status of the budget. The second half of 2008 taxes will be deposited early December. All operating transfers will be credited back to the appropriate funds at that time.

A motion by Supervisor Carrie Jennings: to approve the claims and disbursements as presented. Motion seconded by Supervisor Brian Budenski.

Supervisor Cory Behrendt and Supervisor Jeff Otto reviewed the attorney bill. All charges seem to be in order.

Role call vote was taken on the motion. Supervisor Carrie Jennings- Aye, Supervisor Brian Budenski- Aye, Supervisor Jeff Otto- Aye, Supervisor Cory Behrendt- Aye and Supervisor Dan Rogers - Aye. Motion carried by unanimous vote.

Budget

The Town Board reviewed the budget.

Contractor Time

Chair Jeff Otto presented a summary of the Planning Commissions road review. There are 9 items that were prioritized. *See attached "Eureka Township Road Review November 1, 2008"*

1. 245th St. W. (sewer interceptor work) the project is scheduled to be completed this week. It should open this fall. A filter mat was installed under the gravel restoration.
2. Highview Ave. at Friedges/ Country Stone- the Road Supervisors will address this issue directly. Friedges/ Country Stone have taken it upon themselves to grade the road. There are liabilities in them doing so.
3. Guard rails at 265th St. bridge will be put off until spring. MN Dot standards need to be checked before proceeding.

4. Eureka Estates- cracking in pavement. The Road Contractor will check to see if there is still time to crack seal this fall, if not it will be addressed this spring. Shoulders need raised along edge of blacktop in Eureka estates and Rice Lake Heights. This will take place in the spring.
5. Paving Aprons- Chair Jeff Otto stated his opinion that 225th St and Dodd would not be a high priority. It already has a 60 foot apron. It is the second longest apron in the Township, he would find it hard to justify it when there are other aprons as short as 20 feet that would be more beneficial and it has a 5 ton load limit, having a longer paved area might encourage trucks to use the road more. The contractor commented it was prioritized because there is a steep hill and it is icy. Jeff Otto will contact Progressive Rail on Railroad crossings to see if there are programs for upgrading railroad crossings.
6. Signs needed: Arrow sign missing on 272nd St. W at Hamburg and “No Outlet” signs are needed in Eureka Estates. A stop sign needs replacement on Jersey Court and 235th St. A no parking sign is missing on Chub Lake Road. The road contractor was asked to install the signs.
7. Fall 2008 Grading/ touchup as noted in the report was discussed, the road contractor was asked to take care of these items.
8. Tree Trimming- These items should be addressed this fall when road maintenance is at a minimum.

Other Road Issues: Northern Natural Gas project at Highview just north of 225th St. on the east side of Highview. When they backfilled and seeded, they placed too much fill in the ditch and shifted the bottom of the ditch line so it bows to the west into the east shoulder. The concern is that the water path is being diverted for a stretch of 30-50 feet closer to the road than the original ditch line. It needs to be reshaped to straighten it.

Landowners should work through the Road Supervisors on road or ditch issues and not the Road Contractors.

Chub Lake Shoulder Restoration project: The DNR Waters Department had concerns that the Township may have put too much material onto the shoulder. They had their engineers prepare a drawing for a guide with certain dimensions. Jeff Otto, Bryce and Jason Otte compared site to the dimensions. The site matched the drawings. Jeff has invited the DNR to come out and re-verify the dimensions, if they have further concerns. The water level gauge still needs to be reset, the DNR will arrange for resetting of the gauge.

It was suggested that the Planning Commission Road Review take place earlier in the fall, to allow for time to address pre winter concerns.

Planning Commission, land use permits and related items

A. Permit Requests

1. **Lou Ann Weflen**-8178 267th St W. Farmington requested permits for two Ag. Buildings. (Property ID # 13-02800-012-58) A 24’x 40’- 3 sided loafing shed with 10’ sidewalls and a 48’x 104’ pole barn with 14’ sidewalls to store farm equipment, hay and a shop area. Agricultural Building Exemption Application was submitted. Planning Commission member Sharon Buckley will check setbacks of the buildings.

A motion by Supervisor Cory Behrendt: To approve both permits: one for a 960 sq .ft. farm building and the other for a 4,992 sq. ft. farm building for Weflen’s at 8178 267th St. W. as

presented, indicating that Planning Commission member Sharon Buckley will do the setback inspections. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote.

2. **Caroline Riegel**- 25222 Ipava Ave requested a permit to build a private stable. No representative was present at the October or November Planning Commission Member. The Clerk had contacted Mrs. Riegel and she had verbally withdrawn the application prior to the November meeting. No withdrawal in writing was received.

A motion by Supervisor Cory Behrendt: To deny the application for the private stable presented by Riegel on 25222 Ipava for failure to represent and verbal rescindment of the permit. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

B. Ag Preserve

Nancy Bjerke presented the Town Board with an application to place 149 acres into Ag. Preserve. A motion by Supervisor Cory Behrendt: To accept the Ag Preserve Application by Nancy Bjerke as presented. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote.

C. Land Use & Zoning Issues

1. Prairie Creek CUP & Building Permit

A motion by Supervisor Cory Behrendt: To approve the Prairie Creek Conditional Use Permit as presented. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

A motion by Supervisor Jeff Otto: To approve the building permit application for the Prairie Creek School expansion. Motion seconded by Supervisor Carrie Jennings. Motion carried by unanimous vote.

The Assumption of Risk Agreement has expired, since both permits have been approved.

D. Other Business

1. Contract Amendment- MNSPECT Inc.

The amendment states that the Inspector shall be paid 75% of all penalty fees and 100% of all re-inspection fees. A motion by Supervisor Cory Behrendt: To approve the contract amendment for MNSPECT Inc. for modifying Section A, Paragraph 6 by inserting Item D as follows: The Inspector shall be paid seventy-five (75%) of all penalty fees and one hundred percent (100%) of all re-inspection fees. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

Citizen Business

A. Sauber mine

Township Engineer Ron Quanbeck submitted a report and the Sauber Trust submitted a letter of response to the report. *See attached memo from Ron Quanbeck, TKDA dated October 20, 2008 and response letter fro Rita Poppitz, Trustee for Sauber Trust dated November 6, 2008.*

The Sauber's letter states that it is their position that Mr. Miller needs to comply with the existing permit and reclamation plan. To clarify Rita Poppitz commented that they know that it is not possible for Mr. Miller to comply with the reclamation plan that is officially on record with the Township. They feel that he should comply with the permit and work around the permit regulation in regards to slopes, vegetation, topsoil and end use.

The Township Engineer is suggesting applying the standards of the original reclamation plan, using appropriate slopes to the existing terrain.

Sauber's commented that the property is taking on water from the Tiller property. The property was mined too deep. The depth of the basin needs to be brought up, so that it sets above the Tiller property, so water can drain from the sediment pond. There are several pot holes that are retaining water. Three inches of soil was to be added to the basin. The survey provided to their attorney is dated January 07 (this was a typo it was actually January 08) it is the same survey they already had. Sauber's believe that the slopes are greater than 20%.

Supervisor Carrie Jennings commented that Ron Quanbeck measured the slopes and they measured correctly. One area was steeper. The slope of this area is not on the original plan, so it is not labeled. (no specified slope) The south facing slope is almost vertical.

Saubers feel that all areas should be at least a 20% slope. The property is not suitable for agricultural use at this time. There are weeds, boulders, rocks and debris. They questioned the soil tests.

Supervisor Carrie Jennings commented that geologists and engineers have a different definition of soil than an agriculturalist. Soil is defined as altered parent material, organic matter and broken down rock product it has developed over the last 10,000 years. It doesn't always look dark black. In samples taken there was at least 3" of soil (non sand and gravel. It is very sandy soil.) In the bottom area and top, there was less soil on the slopes. The soil was compared to the soil along the fence line. Stones will naturally come to the surface when there is no vegetation

Saubers commented that one half of the land was agricultural area, with rich organic topsoil. Where did the top soil go? 3 feet of clean fill was to be brought it to fill the basin. They are not sure that this has been done. It is such a mess they can't do anything with the 20 acres.

The following outline was suggested by Supervisor Carrie Jennings: Fill in the basin to the correct level. Reverse the drainage back onto the Tiller Property. Burn the weeds and reseed. Saubers would like the slopes rechecked and further soil tests. An onsite meeting will be set up with all parties involved to discuss the engineering plan. The performance standards are pretty much laid out to what is required. The plan that the Township engineer has will be used for reclamation. The Township will get a copy of the plan from the TKDA.

Kenny Miller addressed the Town Board. Kenny commented that the Board needs to apply the Township standards for the reclamation.

Other Business

A. Storlie Pit- Possible CUP Violations

1. Mixing of Soils, it may have involved soils from the Brosseth property, being mixed on the Storlie Property. The initial work to open the Brosseth pit was to occur starting at the Storlie property and digging east into the Brosseth pit. The basis for the complaint was that this occurred on a Saturday, the Brosseth pit is not allowed to operate on Saturdays. Initial materials being removed were from the Storlie pit until they reached the property line. (20 feet plus slopes) Both Storlie and Brosseth material were initially mined. How do we make a distinction of whose material was being removed on Saturday. When issuing the Interim Use Permit the Town Board had a clear understanding that this was going to happen. The Board could have specified a condition in the permit to provide protection to Mr. Storlie to

acknowledge that this was going on and thought this would be an issue. This activity is no longer happening. This portion of the complaint was dismissed, it does not have merit, and these types of activities are allowed under the current Ordinances.

2. Setbacks from the property line. If two mines are operating adjacent to each other, the material may be mined up to the property line, if agreed upon by both parties. This portion of the complaint was dismissed, it does not have merit, and these types of activities are allowed under the current Ordinances.
3. Spray painting. The ordinances do not specifically disallow spray painting. The focus will be on pollution aspect of the spray painting. A letter will be drafted to Mr. Storlie addressing the spray painting that occurred in the pit relating to pollution. Ms. Cooper, representing Mr. Storlie in the complaint was present. She asked for clarification on the complaint. The complaint is being initiated by Supervisor Carrie Jennings. There are other citizens that have presented documentation pertaining to the complaint. Mr. Storlie will be given the opportunity to respond to the complaint.

C. Response to Joe Miller Annexation Petition to Lakeville

Richard Hocking was present representing Joe Miller. Supervisor Jeff Otto presented the Town Board a draft letter to be sent to the City Of Lakeville opposing the annexation. A letter was also received from a concerned citizen opposing the annexation petition. - *see attached*. Items addressed in this letter were covered in the Township letter. Supervisor Jeff Otto had spoken with Mr. Miller to discuss his reasons for the annexation request. Supervisor Jeff Otto discussed the commercial/ Industrial study the Township is pursuing. Mr. Miller asked for written documentation to support what Supervisor Jeff Otto was describing. Supervisor Jeff Otto presented Mr. Miller with written documentation per his request. Mr. Miller indicated that he would like to be annexed into Lakeville, because of past dealings of the township and past relationships with previous Town Boards. The application was dated August 14th. There is a 90 day provision for response to the petition. The deadline is this Friday.

Eureka Township objects to the annexation of the properties described in the August 14, 2008 petition request on behalf of Joe Miller Farms, Inc., and respectfully requests that the city of Lakeville deny the petition. Eureka Township will contest the annexation. *See attached letter*

A motion by Supervisor Cory Behrendt: To accept the proposed letter in response to the annexation request and to send it as our response. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

Mr. Hocking made no comments on the annexation issue.

B. Planning Commission Update

1. Road Review- The main purpose of the road review is for capital improvement recommendations. They will take it under the advisement to do it earlier in the year. Traffic counts will be taken on the roads. Capital Improvements is on the December agenda.
2. Have any files been received from Bob Hegner. Attorney was to follow up on this.
3. Did not receive the minute correction information from the attorney.
4. Planning Commissioner Sharon Buckley is looking at the Professional Services Engagement policy.
5. Planning Commissioner Kenny Miller is checking with Brian Watson, Dakota County SWD regarding an inventory letter on permits that are needed at the county level.

6. Planning Commissioners Kenny Miller and Vince Mako are working with Castle Rock on the Road Haulage ordinance.
7. ISTS permits- separate permits need to be issued for septic system. In the past permits were issued as part of the building permit. The clerk will contact the building inspector on issuance of septic permits.

Supervisor Jeff Otto and Planning Commission Member Sharon Buckley have discussed the consideration of an ordinance amendment that would build in a reasonable flexibility to allow for berm design change in a mining situation. It would not take away the baseline in the current ordinance requiring an 8 foot berm. It would only be allowable in a situation where there is mutual consent between the mine owner and the immediately affected residents where the berm would be constructed. The residents being affected by the Brosseth mine are interested in a different design of the berm, due to where the berm is located and the mining is taking place.

Old Business

A. Attorney Updates

1. Friedges-During the course of the past month the Town Board has not heard back from Mr. Bjstrom, President of County Stone. He made contact with Supervisor Brian Budenski late today. He indicated that he would be in touch with Supervisor Jeff Otto this week to arrange a meeting next week, so they are ready to make an informal response to the Township attorney's letter.

Supervisor Carrie Jennings commented that there is another business on County Road 86 that looks similar to the Business on the Friedges property. She feels that the Town Board is setting precedence.

The Town Board is ready to move forward with or without a response from Friedges/ Country Stone. It would be most beneficial if they would submit a response. If the Town Board does not hear from Ron Bjstrom by Thursday they will move ahead. With or without a response action will be taken at the next Town Board Meeting.

B. Misc. Updates

1. Brosseth Mine- Update EAW

The EAW has been sent to the EQB. The comment period will run for 30 days. The 8 foot berm is required in the ordinance. If the interim use permit is issued before the ordinance is changed, the interim use permit would need to apply for an amendment once the ordinance has changed. The interim use permit could be issued after the ordinance change, if time would allow. A interim use permit can not be issued contingent on future ordinance changes. The EAW could have flexible language.

2. Zimmer Permit Update

The letter was sent to Mr. Zimmer requesting a Wetland Delineation Report on his property. A copy of the letter was sent to Brian Watson, SWCD and Dee Jarvis, Dakota County.

3. Cedar Ave Corridor Alignment

Supervisor Jeff Otto met with Scott Peters and Brian Sorenson of Dakota County Planning and affected land owners on October 30th to discuss the proposed road alignment. The plans are 15-20 years in the future. They want to map the area. This strategy prevents future development over the proposed easement. Dakota County planners agreed to a compromise. They would

designate the general area of where the roads intersect on the Township side as a future study area rather than mapping the area.

4. Rural Collaborative Water Plan

The meeting has not been set. The updated draft plan has not been completed. Supervisor Carrie Jennings will follow up on this item.

5. Petter License update

The Town Board has initiated a follow up with the Department of Natural Resources and the MN Department of Agriculture to verify license compliance to seek records on file for supporting evidence. Township Attorney Mr. Kelly talked to Sandra Dunn, Department of Agriculture. She acknowledged that everything on the license is compliant and that they need a formal request under the Data Practices Act to obtain records on file. The request has been made. The DNR faxed preliminary information. They will provide additional information with a formal request.

6.& 7. Previously addressed

8. CapX2020 Update

Supervisor Carrie Jennings reported that she had talked to Craig Poorker. They have not finalized the preferred or alternate routes. County Road 70 is still being considered. It probably won't be part of their submittal, it will probably be tacked on somewhere. The routing application should be finished in the next month.

New Business

A. Lewis and Kirsh- Audit confirmation letter

A motion by Supervisor Jeff Otto: To accept the proposal letter for services from the firm of Lewis Kirsh and Associates to provide the annual Township audit for the calendar year ending December 31, 2008. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote. Supervisor Jeff Otto signed the document.

B. Office Help

The clerk proposed that the Town Board hire an assistant to help out in the office. The person would work 2 days a week, starting with Mondays and Thursdays during regular office hours. Once she is familiar with the job she may work on another day. The proposed pay rate was \$10.00 per hour 10-15 hours per week. The clerk currently is allowed 32 hours per week. The time would be shared so that the budgeted amount would not be exceeded. Teresa Koentopf has expressed interest in working this part time position.

The Town Board asked the clerk to check with MAT whether an employment agreement is needed.

A motion by Supervisor Cory Behrendt: To hire Teresa Koentopf to work within the current administrative budget and to follow the recommended hiring guidelines as recommended by MAT. Pay rate to be \$10.00 per hour. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

C. Commercial/ Industrial Study

Supervisor Cory Behrendt asked how the Town Board wanted to move forward with the Commercial/ Industrial Study. He will draft a Request for Information. (RFI). It will include the overall objective. Outcome: Is a commercial center viable? If it is viable, what types of

businesses and restrictions are desirable? What businesses would fall with in this? There is interest in the Township to improve tax base. What classes of businesses are truly positive contributors to the tax base vs. cost of services? What is the environmental impact of businesses? The tentative schedule to complete the study is one 1 year.

Clerk/ Treasurer Presentation

The Clerk had discussion with Building Inspector Scott Qualle about the inspection of septic system permits. He expressed interest in turning over all septic system inspections over to Darrel Gilmer. (Townships second Soils inspector) The clerk will contact Scott Qualle and inform him that the Town Board would be in agreement with this arrangement.

Wayne Hallcock 5975 280th St. W. has not moved forward in obtaining his building permit from March 10, 2008. He paid the clerk for the plan review fee and submitted a letter to the building inspector for an extension of the permit. He plans to move forward with the project next spring.

A motion by Supervisor Cory Behrendt: to adjourn. Motion seconded by Supervisor Brian Budenski.

Meeting adjourned at 10:40 pm.