

Eureka Township
Dakota County
State of Minnesota

Eureka Town Board Meeting of November 12, 2012

Call to Order

Chair Brian Budenski called the November 12, 2012, Eureka Town Board meeting to order at 7:00 p.m. Members present were Supervisors Brian Budenski, Mark Ceminsky, Steve Madden, and Kenny Miller. Supervisor Pete Storlie arrived during the approval of the agenda. Clerk/Treasurer Nanett Sandstrom was present to record the minutes. Lu Barfknecht was present as Planning Commission Liaison. See attached attendance sheet for additional persons in attendance.

A motion by Supervisor Brian Budenski: That it is necessary for the Township to hold this meeting to conduct the public business on the agenda. Motion seconded by Supervisor Kenny Miller. The motion was made because November 12, 2012 is Veteran's Day. State Statute says that public business cannot take place on a holiday unless it is of necessity. It is necessary to hold the meeting because of the attorney situation that has come to light. Vote was taken on the motion. Three Supervisors voted in favor of the motion, Supervisor Mark Ceminsky voted against the motion. The motion carried.

The meeting opened with the Pledge of Allegiance.

Approval of Agenda

The following was added to the agenda:

Building Inspector Business, items 2 thru 7 was moved to Old Business, Misc. Updates

Other Business: L. Fire Inspections

A motion by Supervisor Brian Budenski: To approve the agenda as amended. Motion seconded by Supervisor Steve Madden. Motion carried by unanimous vote.

Public Comment Period

Gloria Belzer presented the Town Board with a bill from Lakeville Trophy for the updates to the wall plaque. The bill was given to the Clerk for payment in December.

Nancy Sauber asked what the Attorney situation was that was mentioned in the opening statement. Chair Brian Budenski commented that there is a new attorney representing the Township, he is from the same Law Firm. This will be discussed later in the agenda.

Treasurer's Report

Checking Account Balance: \$2,003.16. Outstanding Checks \$726.41. Savings Account Balance: \$335,307.75. CD Account Balances: \$69,563.35. The Ledger Balance is \$406,147.85.

A motion by Supervisor Brian Budenski: To approve the Treasurer's Report as stated. The motion was seconded by Supervisor Kenny Miller. The motion carried by unanimous vote.

Sheriff Deputy Smith was present to address Town Board and citizens questions. There have been a number of deer/ car accidents and some break-ins in the area. Any suspicious activity should be reported to the Sheriff Office.

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

The Clerk presented the following bills for payment:

Henry's Excavating	Road maintenance thru 10/31/2012	\$12,849.00
MNSPECT	Inspection Service – October 2012	\$2,811.01
Dakota Electric Association	Town Hall Electric	\$65.33
Frontier Communications	Phone Service Town Hall	\$131.71
Dick's Sanitation	Garbage Service Town Hall-Nov 2012	\$49.79
Culligan	Water Softener Service	\$23.51
ECM	Legal Ads	\$49.00
Kelly & Lemmons	Newsletter	\$183.18
Gold Mine Dezine	Road Gravel	\$3,100.62
TKDA	Ditch Repair	\$1,572.41
Clarks Lawn Service	Mowing September	\$351.45
Castle Rock Contracting	Tree Removal	\$4200.00
Metro Sales	Printer service	\$145.60
Mark Ceminsky	Flag pole lamps	\$46.04
Linda Wilson	Reimbursed Expenses & mileage	\$179.45
M&R Sign	Signs	\$4,328.25
Cheryl Schindeldecker	Elections	\$109.76
Anna Marie Henry	Elections	\$128.87
Becky McIntyre	Elections	\$85.56
Glenda Holz	Elections	\$88.89
Laurie Benson	Elections	\$73.89
Marlene Swantek	Elections	\$145.55
Rose Svoboda	Elections	\$112.20
Elaine Swedin	Elections	\$88.33
Mary Ann Michaels	Elections	\$80.55
John Schabel	Elections	\$118.86
Valarie Kehrer	Elections	89.44
Rose Buchanger	Elections	\$78.89
Jody Arman Jones	Elections	93.04
IRS	November 2012 Deposit	\$753.01
PERA	Payroll Period 10/1/2012 to 10/31/2012	<u>\$459.28</u>
Total Bills Presented		\$34,164.08

A motion by Supervisor Brian Budenski: To approve the Claims Lists and Net Pay Account Distribution as presented. The motion was seconded by Supervisor Steve Madden. Roll call vote was taken on the motion: Kenny Miller- aye; Pete Storlie-aye; Brian Budenski-aye; Mark Ceminsky-aye; and Steve Madden-aye. The motion passed unanimously.

The following receipts were received in October:

- **Local Permits**

Alice Catlin- Permit #12-17	\$175.72	Hoyt Construction- ET12-025	\$2550.00
Hat Trick- Penalty Fee	\$50.00	Dave Larson- Driveway permit	\$50.00
Don Shutte- Permit ET12-012	\$105.00	Dan Fredrickson- ET12-026	\$105.00
Advanced Septic- 12-10-14	\$280.00	Vermillion Kennels- Kennel License	\$100.00
Scott Borowitz- ET12-022 & ET12-023	\$130.00	Jill Woehrle- Permit #12-19	\$1,375.04
Twin Cities Siding- ET12-024	\$105.00	William Funk- Permits 12-18 & 12-20	\$2,567.22

- **Other Receipts**

Ackerman Furniture- Newsletter Ad	\$125.00	City of Farmington- Gravel Reimburse.	\$3,096.45
Thomas Gergen- RASP Sign	\$14.81	Terri Petter- Meeting recording	\$5.00
Mark Hessian- RASP Signs	\$15.00	State of MN- MV Credit	\$2,657.28
Terri Petter- Meeting recording	\$5.00		

TOTAL RECEIPTS AS OF OCTOBER 31, 2012 **\$11,066.52**

The Town Board reviewed the Financial Reports prepared by the Clerk.

A motion by Supervisor Brian Budenski: To approve the balance of the Financials as presented. The motion was seconded by Supervisor Mark Ceminsky. The motion carried by unanimous vote.

Monthly Budget

The Town Board reviewed the Monthly Budget.

Contractor Time

Road Contractor Mark Henry was present.

The culvert on 235th Street was cleaned out. He has been grading to get the roads prepared for winter.

The blacktop repairs have been made. Road Contractor Mark Henry will be filling in the edges along the driveways. The rest of the edge filling will be done in the spring.

The road signs have been received and placed in the conex. Mark Henry will be installing road signs as time permits.

Citizen Business

Chris Nielsen- Advertising Sign

The Town Board received a complaint on Chris Nielsen's advertising sign located at 25756 Galaxie Ave it is advertising a Truck Repair Business. The sign consists of a semi trailer box elevated by a fork lift with a banner placed on the side. The Business is registered as a Non Conforming Business. Mr. Nielsen did not obtain a sign permit for the sign. The Clerk was asked to send a letter to Mr. Nielsen informing a complaint has been received, to send him a copy of the complaint and to inform him that he needs to obtain a sign permit per Township Ordinances. Ordinance language will be included in the letter.

Other Business

A. NCRWMO Citizen Planning Advisory Committee Report

Carol Cooper- Eureka Township's appointed representative to the committee was present to report on Committee meetings. The North Cannon Water Plan needs to be updated in 2012. Laura Jester, Dakota County is putting together a draft, it will be available sometime in November. Meeting notes, agenda and documents for every meeting are available online for those interested. Once completed the draft plan will be available on the NCRWMO website.

B. Building Inspector

1. Borowitz permit fees

Waiving the fees for the Borowitz permit were first discussed at the August 13, 2012 Town Board meeting. Building Inspector Scott Qualle was not present at the meeting. Supervisor Pete Storlie had reported that he had spoken with Mr. Qualle and he was willing to waive the fee for Mr. Borowitz permit. The Town Board issued the permit to Mr. Borowitz without charge on the Building Inspector's word that he was waiving the fees. When the Town Board met with the Building Inspector at the October 30, 2012 Special Town Board Meeting Scott commented that it was very nice of the Township to offer to waive fees for someone who has a challenging issue or project underway but respectfully said they do not have the right to waive his fees to the Township. He is not in the business to work for free. Supervisor Mark Ceminsky commented that when he questioned the Building Inspector about charging for the permit the Building Inspector had said he had changed his mind. Town Board members commented that Scott needs to make the decision, the Town Board cannot tell him not to charge for the permit.

A motion by Supervisor Kenny Miller: Not pay the amount billed for the Borowitz permit (Permit #12-16 for \$865.41), to strike the amount from the invoice before payment. The Town Board volunteered to donate their time, the tax payers of the Township should not pay for subcontractor work.

The Township was billed by MNSPECT for the permit October 3, 2012 and paid the Invoice on October 9, 2012. Supervisor Kenny Miller withdrew his motion.

A motion by Supervisor Mark Ceminsky: To table discussion on the issue until the December Town Board Meeting, so that Supervisor Pete Storlie and himself can meet with Building Inspector Scott Qualle and Scott Borowitz and see if they can come to a resolution on the issue. Motion seconded by Supervisor Pete Storlie. Motion carried by unanimous vote.

C. Attorney Letter

The Town Board received an email November 12, 2012 from Chad Lemmons of Kelly and Lemmons Law Firm. He has been appointed as the primary attorney by the Law Firm to represent the Township. Chair Brian Budenski read the letter into record. *See attached memo.*

The Town Board discussed concerns with moving forward with the same law firm. They discussed the importance of adhering to timelines set for attorney responses to Town Board questions.

A motion by Supervisor Kenny Miller: To accept the letter showing the change of internal representation for the Township. Motion seconded by Supervisor Mark Ceminsky. Motion carried by unanimous vote.

D. Duplex Dwelling at 24005 Dodd Blvd.

The Town Board received a response from Township Attorney Trevor Oliver to Town Board questions on when duty to inspect housing is triggered. *See attached memo dated November 11, 2012.* Supervisor Pete Storlie and Supervisor Mark Ceminsky asked what had been asked by the attorney. They were not questioning his authority for inspection of the property. Any inspection notice, once non public information has been redacted would be forwarded to the property owner.

The Town Board discussed the dual occupancy of the structure. The Township does not have Ordinances that allow dual occupancy in the Township. The Planning Commission will be asked to look at Township Ordinances to possibly allow or regulate this type of occupancy.

E. Planning Commission Update

Lu Barfknecht was present as Planning Commission liaison.

1. Ag Building Statute- from Planning Commission
The Planning Commission reviewed the State Statute that Ag structures are exempt from the State Building codes. By Ordinance definitions a fence is a structure and therefore is also exempt from State Building Codes.
2. Road review is scheduled for Saturday, November 17, 2012 at 8:00 am. The Town Board Road Supervisor asked for CIP recommendations from the Planning Commission for roads by November 27th for their meeting.
3. The Planning Commission interviewed and recommended appointing Phil Cleminson and Nancy Sauber to the Transfer Task Force. They extended the deadline for the submission of applications until the November 12, 2012 Town Board meeting because some of the Farmington Newsletter had not been delivered.
4. The Planning Commission also recommended approving the TKDA proposal for the Transfer of Housing Rights Study.

F. Ordinance Work Assignments for Planning Commission

The Town Board had a list of ordinance work that they asked the Planning Commission to look into. "New Ordinance work for Planning Commission". The document was briefly discussed. The Town Board would like a response from the Planning Commission for the January Town Board meeting.

G. TKDA Proposal- Transfer Housing Rights Study and Transfer Task Force

Committee member Butch Hansen and Jeff Otto were present and addressed the Board. The Planning Commission recommended approving up to \$9,800 for the study. The proposal would include 2 open houses. The goal is to have the study completed by the Annual meeting. The Town Board discussed the proposal. C.4. in the contract was changed to read "up to" 6 meetings.

A motion by Supervisor Brian Budenski: To approve the Task Force budget as presented by TKDA for up to \$9,800. Motion seconded by Supervisor Kenny Miller. Motion carried by unanimous vote.

H. Transfer Task Force Committee Update

Jeff Otto asked the Town Board for authorization to contact the Township Attorney on Building Right questions. Town Board members did not feel comfortable spending additional money on the attorney to get opinions that may not apply in the future.

I. Appoint Transfer Task Force members

A motion by Supervisor Brian Budenski: To appoint Nancy Sauber and Phil Cleminson to the Transfer Task Force along with present committee members Butch Hansen, Jeff Otto and Allen Novacek. Motion seconded by Supervisor Kenny Miller. The Town Board asked if there were any other applicants. Terri Petter submitted a letter of interest to the Town Clerk before the meeting. Since there were no other applicants and the Town Board did not want an even number of members, they decided to stay with 5 committee members. Motion carried by unanimous vote.

J. Sheriff Joint Powers Agreement

The current agreement expires December 31, 2012.

A motion by Supervisor Brian Budenski: To renew the Joint Powers Agreement with Dakota County for Ordinance Enforcement Services. Motion seconded by Supervisor Pete Storlie. The Town Board will review the agreement once drafted before signing it. Vote was taken on the motion. The motion carried by unanimous vote.

K. Road Committee Report

Supervisor Mark Ceminsky reported on the Road Committee meeting. They are working on a breakdown of the road budget and what roads they are budgeting for. The committee has a new member Anna Marie Henry. They now have 5 members.

L. Rodent control and Town Hall lawn cleanup

Clarks Lawn Service put in a proposal for fall lawn cleanup and shrub trimming. The proposed cost to trim the shrubs is \$75.00. The Town Board discussed that trimming the arborvitaes would cost more than \$75. They were not sure what bushes the quote included.

There are rodents digging around the Town Hall. Supervisor Kenny Miller will contact Plunkets on the cost of rodent control.

A motion by Supervisor Mark Ceminsky: To approve up to \$300 for trimming the bushes and for Butch Hansen to meet with Clark's Lawn Service to go over the work he will do. Motion seconded by Supervisor Pete Storlie. Motion carried by unanimous vote.

M. Fire Inspections

Supervisor Steve Madden asked if he could contact the Lakeville Fire Department to see if they would do fire inspections for the Township when needed. The Town Board agreed to let him check into this and to report back in December.

Old Business

A. Misc Updates

1. Mahoney

A draft letter to be sent to Mahoney's was received from the Township Attorney. The letter will be sent by regular and certified mail. A typo needs to be made- change "Ms" to "Mr." on the letter before it is sent. Supervisor Kenny Miller will contact the Attorney and have the correction made before it is sent.

2. Judge Ruling Non Conforming Use

The Attorney sent a vague response. It was not what the Town Board thought was happening. Supervisor Kenny Miller will contact the new attorney and find out if this information is correct and let him know what the Town Board is looking for. There has already been some work done on the stipulation, the Town Board was waiting for a confirmation of the Judges Decree.

3. Dave Sellner

Dave Sellner submitted an application for an addition to his pole shed in August. The Town Board approved the application at the August 13, 2012, Town Board meeting. The permit application was sent to the Building Inspector for issuance. Permit 12-13 was issued by the Building Inspector on August 16, 2012. Mr. Sellner has chosen not to pick up and pay for the permit. The Clerk sent a letter to Mr. Sellner on November 2, 2012 informing him that he is obligated to pay the plan review fee even if the permit is not obtained. The Clerk has not received a response from Mr. Sellner. The Clerk's letter will be sent to the Township Attorney and the Township Attorney will be asked to draft a letter to Mr. Sellner.

4. Mark Buffington- 6725 245th St. W.

Once again the Attorney's response is vague on the issue. The Town Board thought there was already a court action on this issue. Supervisor Kenny Miller will check with the new Attorney.

5. Joe Miller-22260 Dodd Blvd

A draft letter to be sent to Mr. Miller was received from the Township Attorney. Corrections needed to be made to the letter before it could be sent. Changes were only made to the middle building, not all three buildings. The address was also needed to be corrected to 22260 Dodd Blvd. The letter will be sent by regular and certified mail.

6. Charles Liane- 9020 235th St W

Dakota County closed the case, because the building was determined not to be in shoreland. Attorney follow up needs to be sent to Mr. Liane.

7. Charles Roberts- 26110 Ipava Ave- setback issue

The Building Inspector performed an inspection on the location of the building. No one was home and an inspection report was placed on the door. The building has not been moved to meet Township Ordinance setback requirements. The Building Inspector Supervisors will follow up with the Building Inspector on this issue when they meet with him.

8. Citation authority information from Trevor

No information was received from the Attorney on this item. Supervisor Kenny Miller will follow up with the new Attorney.

Terri Petter interrupted the meeting asking to speak to the Town Board on an issue. She questioned the Town Board if the Inspection Report on her old house is public knowledge. Earlier in the evening before Terri Petter left the meeting she asked the Clerk for a copy of the Inspection Report along with a copy of the complaint and a copy of the Attorney letter. The Clerk had made the copies to give to Terri Petter as requested.

The Town Board told Terri that since the Town Board had discussed the Attorney letter at the meeting, it was now a public document and that Inspection Reports are public documents once non public information has been redacted. The requested copies were given to Ms. Petter.

9. Nuisance Enforcement on Model Airplanes & Township Airstrip Ordinance

The response given by the Attorney does not address this issue. It does not answer the questions about enforcement or how Township Ordinances on Airstrips might come into play.

10. MNSPECT Question (From October 30, 2012 Special Town Board Meeting)

Supervisor Kenny Miller read the response from the Attorney on the MNSPECT contract and his personal bankruptcy.

11. Special/ Closed Town Board meeting request- Terri Petter lawsuit

Supervisor Mark Ceminsky and Supervisor Pete Storlie both requested a Special Closed Town Board meeting to discuss the Terri Petter Lawsuit. The Clerk was asked to setup a date for a Special Closed meeting with the Attorneys. The meeting will be held in December.

12. Building Inspector Invoice

The Clerk questioned if the Claim for the Building Inspector should be adjusted by \$100. The \$100 inspection fee for the Inspection at 24005 Dodd Blvd has not been received from the Building Inspector. At the October 30, 2012 Special Town Board meeting, Mr. Qualle commented that the payment is in a folder that would come with the bill at the end of the month. The November 5, 2012 invoice included payment for the inspection.

A motion by Supervisor Kenny Miller: To amend the check, to put a hold on the \$100 payment until the Clerk receives the monies from Mr. Qualle that he already collected. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

The Claims List was corrected by the Clerk and a new check drafted for MNSPECT.

Minutes

A motion by Supervisor Pete Storlie: To have the recordings from the October 9, 2012, Town Board meeting saved. Motion seconded by Supervisor Mark Ceminsky. Motion carried by unanimous vote.

A. Town Board meeting of October 9, 2012

A motion by Supervisor Brian Budenski: To approve the Eureka Town Board Minutes of October 9, 2012, as presented. Motion seconded by Supervisor Pete Storlie. Motion carried by unanimous vote.

A. Town Board meeting of October 25, 2012

A motion by Supervisor Kenny Miller: To approve the minutes of October 25th Special meeting regarding Bill Funk. Motion seconded by Supervisor Steve Madden. Motion carried by unanimous vote.

A motion by Supervisor Pete Storlie: To have the recording saved from the Special Town Board meeting of October 30, 2012. Motion seconded by Supervisor Mark Ceminsky. Motion carried by unanimous vote.

B. Town Board meeting of October 30, 2012

A motion by Supervisor Kenny Miller: To approve the minutes of October 30, 2012, Special Town Board meeting. Motion seconded by Supervisor Pete Storlie. Motion carried by unanimous vote of members voting. (Supervisors Kenny Miller, Mark Ceminsky and Pete Storlie were present at the meeting)

Kenny Miller commented that he will contact the HVAC provider to look at the heating system. He did not think it is working properly.

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

The Meeting adjourned at 10:05 p.m.