

Eureka Township

Dakota County

State of Minnesota

Eureka Town board Meeting
November 14, 2005

Call to Order

Chair Connie Anderson called the regular monthly meeting of Eureka Township to order at 7:00 PM. Present were Supervisors Connie Anderson, Gloria Belzer, Cheryl Monson and Clerk/Treasurer Nanett Champlain, to record the minutes. Supervisor Mark Malecha arrived at 7:15 pm.

The meeting opened with the Pledge of Allegiance.

Approval of Agenda

The agenda was amended as follows:

Parliamentary procedure- "Call the Question" to be addressed immediately after approval of agenda.

New Business: B. Connie Anderson addresses the Town Board

Other Business: B. North Cannon River WMO Update

A motion by Supervisor Gloria Belzer: To approve the agenda as amended. Motion seconded by Supervisor Cheryl Monson. Motion carried.

Parliamentary procedure- "Call the Question"

Supervisor Gloria Belzer contacted the Minnesota Association of Township's attorney on the proper procedure for using the parliamentary procedure of "calling the question". The following response is from Troy Gilchrist, MAT Attorney- "Call the question" is often misapplied in meetings. Calling the question is a parliamentary rule to limit debate on a motion. If your town has not adopted parliamentary rules that provide for such a motion, then technically it is not allowed. If you do provide for it as Robert's Rules, then it is actually a motion that must be made, seconded and passed by the governing body before it actually has the effect of cutting off the debate. I often see it misapplied so that someone shouts out "call the question" the chair ends the debate and immediately goes to a vote, which is wrong. Again, calling the question is a motion that needs to be seconded, voted on, and passed before the chair then moves to the vote.

The clerk has not seen any reference in past minutes of the adoption of Robert's Rules or Parliamentary procedure by the town board. The town board determined that calling the question could not be used at the board meetings. Supervisor Cheryl Monson asked that the township attorney be contacted on proper procedures.

Audience Comment Period

Dick Wagaman 25791 Dodd Blvd- questioned why the town board does not adopt and use rules such as Robert's Rules. The town board would need to obtain legal advice on adopting rules. These types of issues are addressed at the reorganizational meeting in March.

Minutes

The following change was made to the October 11, 2005 Town Board Meeting Minutes: Page 1 "Windstrom" should read "Widstrom". Page 3- Davis Property "He" changed to "The". A motion by Supervisor Cheryl Monson: To approve the October 11, 2005 Town board Meeting minutes with corrections. Motion seconded by Supervisor Gloria Belzer. Motion carried.

Treasurer's Report

Treasurer Nanett Champlain reported that there is \$947.66 in checking, \$68,201.65 in the savings account and \$141,352.89 in CD investments. Federal tax liability, \$542.19, MN tax liabilities are \$80.59 and state surcharge for building permits \$43.50.

Motion by Supervisor Mark Malecha: To approve the treasurer report as presented. Motion seconded by Supervisor Cheryl Monson. The motion carried.

Bills and Receipts

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

PERA	Payroll 10/1/05 to 10/31/05	\$250.35
BeSure Inspection Services	October 2005 Inspections	\$2,945.75
Civil Air Patrol	Refund overcharge Application Fee permit #05-08-019	\$50.00
Farm Road Services	October 2005 Road Maintenance	\$8,450.00
Frontier Communications	Phone Bill	\$113.21
Culligan	Water Softener Rental	\$23.38
Murnane, Brandt	Service through 9/30/05	\$1,281.70
Dale Kuchinka	Ditch Mowing	\$5,862.50
MATIT	Worker's Compensation Ins	\$293.00
Nanett Leine	Payroll 10/1/05 to 10/31/05	\$1,778.63
Nanett Leine	Expenses 10/1/05 to 10/31/05	\$175.04
Pat Fossum	Payroll 10/1/2005 to 10/31/2005	\$60.03
Dakota Electric	Electric Bill	\$85.09
TOTAL BILLS PRESENTED		\$21,368.68

A motion by Supervisor Cheryl Monson: To approve bills as presented. Motion seconded by Supervisor Gloria Belzer. Motion carried.

The following receipts were deposited in October:

• <u>Building Permits</u>			
Dan Rogers- <i>Application Fee</i>	\$25.00	Dan Rogers- <i>permit 05-10-026</i>	\$342.16
Steve Kimmel- <i>permit 05-09-024</i>	\$1,488.44		
• <u>Other Receipts</u>			
MN Department of Finance- <i>MV Credit</i>	\$9,939.73	- <i>COMP Plan- CD</i>	\$5.00
RASP Signs- <i>14 signs</i>	\$162.82		
TOTAL RECEIPTS PRESENTED			\$11,963.15

A motion by Supervisor Gloria Belzer: To accept the receipts as presented. Motion seconded by Supervisor Mark Malecha. Motion Carried.

Budget

The town Board reviewed the budget. There were no culvert or ditch repairs in 2005, so the budget was not adjusted as requested at the September Town Board Meeting.

Planning Commission

Consent agenda items:

1. **Bachman's Inc-** 6010 Lyndale Ave South requested to split 40 acres with the store site from the 629 acre parcels in Section 3 and Section 10. There will be no change of ownership; the split is for green acres and insurance purposes.
2. **Cross Nurseries Inc.-** 20814 Isle Ave, Lakeville requested a permit for a 32' x 40' office building. Property ID # 13-00500-018-75. Site address at 227xx Highview Ave.
Permit # 05-11-028 was issued for \$2,306.31
3. **Tyrone Friedges-** 25175 Dodd Blvd requested a permit for a 40' x 40' addition to his pole barn. Property ID# 13-01900-015-29. The building is for personal use. Building plans were presented to the building inspector. **Permit #05-11-027 was issued for \$588.66**

A motion by Supervisor Mark Malecha: To approve the consent agenda items. Motion seconded by Supervisor Cheryl Monson. The motion carried.

Other Planning Commission items:

1. **Friedges Landscaping- 9380 202nd St. W.** requested a permit for a 120' x 180' pole shed with 24' sidewalls for commercial agriculture use. The building will be used for the wholesale processing of soils. Currently this process is being done at this location, during dry weather. The processing of soil will be moved inside; all processing of soil will be done at this site. At the present time soil is hauled to another location and bagged during in climate weather. All equipment located at the site will be moved inside, leaving the area visibly neater. The number of employees on site will remain the same 6-8. The building will not be winterized, processing of soils will not be done in the winter. The bathroom facilities will be shut down. (In operation approximately April to December). The hours of operation are staying the same. Friedges Landscaping will increase size of burm on west side and place trees and landscaping around the building.

Friedges are also requesting a driveway permit. The new driveway will be located on the crest of the hill on Highview Ave. The new driveway will be used for trucks exiting the site, it will provide for a safer exit from the property.

The following portions of Zoning Ordinance 3 were discussed:

- Definition of Agriculture (page 3)
- Definition of Horticulture (Page 12)
- Definition of Agricultural Operations (Page 3)
- Definition of Commercial Agriculture (Page 7)
- Chapter 4, Section 2 (page 47)_Performance Standards for Agricultural Operations.
- Section 4. Building Permits B. Application 3. (Page 49)
- Section 5 Registration of Legal Non Conforming Use, C. & D. (page 39)

Friedges Landscaping did not comply with any of the above definitions and was determined to be a non conforming use.

Friedges Landscaping registered with the township as a Legal Non Conforming Use, under Zoning Ordinance 3, Section 5.

Township Building Inspector, Bob Hegner classified the proposed building as an industrial plant, a factory a M2- low fire hazard operation. Because of its size (21,600 sq ft) and nature of use, he

explained it is put into a category of a structure that it needs to be made out of steel and concrete. The building inspector has not received a complete set of building plans.

Town Board discussion included: This is the first non conforming business that has requested a permit under the new ordinances. It was suggested that the township attorney be contacted to review the request. A statement from Attorney Peter Tiede on “Procedural Safeguards for Township Officers” was read: Any time you undertake an activity which is new to the township or which is more complicated or some how different than your usual business, paying your township lawyer to review the situation your proposed steps is money well spent.

A motion by Supervisor Cheryl Monson: To approve the building permit for Friedges Landscape. Motion seconded by Supervisor Mark Malecha.

Through continued discussion the following was determined:

1. The town board determined that Friedges Landscaping is a non conforming use.
2. The addition of the building is an alteration to the existing non conforming use, not an expansion. The operation of the business is not changing.
3. The town board felt that the impact on neighboring properties will positive. The current activities will be moved inside; there will be less visible activity, less dust, less noise, the equipment will be stored inside (site less cluttered). The trucks will be loaded inside; there will be less truck traffic (hauling product off site for bagging process).
4. No public hearing was needed because:
 - a. It is an alteration, not an expansion of the non conforming use.
 - b. The changes being made to the non conforming business will not have a negative impact on the surrounding community.

A vote was taken on the motion. 3 supervisors voted in favor, one opposed, motion carried.

Supervisor Gloria Belzer asked that the following statement be entered into record: Supervisor Gloria Belzer voted against the motion, per Ordinance 3. Chapter 1. Section 5. C. The alteration of the non conforming business, Friedges Landscaping, may alter the impact on neighboring properties and must go through the expansion process set forth in Section 5. D, 1 through 4 before approving or denying the request.

The amount assessed by the building inspector for the permit was questioned; the permit was not paid for at the meeting. The applicant will need to contact the building inspector on the permit fee. The \$50.00 application fee and \$50.00 driveway permit were paid.

Building Permit #05-11-029 pending for \$23,083.77

2. Alberta Gelineau- 26413 Galaxie Ave, Farmington requested a permit for a garage- pole type structure 40’ x 60’ with 16’ sidewalls. The building inspector has received the building plans and approved the permit. The county has inspected the site, Shoreland has approved the location, and the town board has not received the letter.

A motion by Supervisor Mark Malecha: To approve the permit subject to written county approval and location of building (2 sites were presented). Motion seconded by Supervisor Cheryl Monson. The motion carried.

Building permit # 05-10-030 pending for \$804.04

Building Inspector Items and Other Business

None presented.

Planning Commission questions to the town board

1. The Planning Commission asked for clarification of what building sites they were responsible for inspecting and what sites the building inspector would be inspecting.
 Building Inspector- Any new construction site: House, residential pole building, garage, etc.
 Planning Commission- agriculture buildings and any additions to existing buildings.
 The town board suggested that the building inspector's contract should be amended to reflect site inspections.
2. Road projects- Planning Commission is recommending establishing guidelines for road right of way. They will review MAT guidelines.
3. The Planning Commission presented the town board with a copy of the "Request for Proposal- Strategic Vision" They are seeking approval at the January Town Board Meeting.
4. Agricultural Building Criteria- The town board will bring their opinions to the next board meeting, so an establish guideline, for the Planning Commission, to be used in determining an "agricultural building".
5. Is there a set back between buildings on the same property? There is nothing in the ordinance defining distances between buildings.
6. By Ordinance, Planning Commission Meeting Minutes need to be distributed to the town board 24 hours before the next Town Board Meeting.
7. Add: Application date on zoning permit application form.

Contractor Time

Roads

The town board has not received any complaints or comments on the road.

The road counts are almost complete; they will be forwarded to the Planning Commission.

Old Business

Dakota City- Town Hall

Chair Connie Anderson has been in contact with Rich Williams from Dakota City, they are still interested in the town hall. They are trying to come up with a way to finance the project; this will take a couple of months. The Town Board would like a written commitment from the Fair Board.

"Last Chance Bids" - Items from old town hall

The clerk opened the sealed bids for items in the old town hall. Three bids were received for the Handicap Access Port-a-Potty- \$231.00, \$600.00 and \$125.00. Sink- \$2.00, heater- \$50.50 and the cupboard \$25.50. A motion by Supervisor Mark Malecha to accept the \$600.00 bid from Dakota City for the Port-a-potty. \$2.00 for the sink, from Joe Auge. \$50.50 for the heater and \$25.50 for cupboard from Earl Schindeldecker. Motion seconded by Supervisor Gloria Belzer. Motion carried.

Complaint in Eureka Estates

The clerk received three response letters from citizens in Eureka Estates and one citizen was present to make a verbal response. The board reviewed the letters presented. Five citizens have made no response. Mark Vesta had written a letter to the town board, he was also present and made a statement. Respondent, Clark Smith stated that he is in the process of bringing his yard into compliance with Township Ordinances. He had removed the 3 junk cars from the yard, scrap metal and has obtained a burning permit from Lakeville Fire Department. The town board accepted the response letters from the citizens. The clerk will sent follow up letters to the respondents thanking them for their acceptable response. The letters will filed with the complaint.

The respondents were given 30 days to contact the town board, this period has not expired. This item will remain on the agenda for December.

Country Joe Racing

The Town Board had the opportunity to review the Township Attorney's response that was received the night of the October Town Board Meeting. Two Town Board members, the Township attorney, Country Joe Racing and their attorney will meet and discuss the issue. Supervisor Gloria Belzer and Chair Connie Anderson will represent the Township. There will be no quorum of the town board, no decisions will be made. The meeting will consist of discussion on the noise complaint. Move to January agenda.

Elko/ New Market Interceptor

Updated draft plans have been provided for each town board and planning commission member and a copy for the town hall. The public hearing run by the Metropolitan Council will be at the Eureka Town Hall Thursday December 8, 2005 at 7:00 pm. The Metropolitan Council will be sending a letter to all Eureka Township citizens about the Interceptor Public Hearing. A comment card addressed to The Eureka Town Board will be included with the letter.

Lakeville Annexation Issue

No new information

A motion by Chair Connie Anderson: To amend the agenda, to add: Old Business G. Conroy Complaint. Motion seconded by Supervisor Gloria Belzer. Motion carried.

Conroy Complaint

A letter of response has been drafted to be sent to Mr. Conroy. The letter was presented to the town board for approval. The town board approved the letter; Chair Connie Anderson signed the letter. It will be sent to Mr. Conroy.

New Business

Complaint on Dodd Blvd

The town board received a letter of complaint on what they felt were an excessive number of cars parked in a yard at 24840 Dodd Blvd and vehicles for sale at the property. A letter will be sent to the property owner, asking for a written or verbal response in 30 days to the number of licensed vehicles and licensed drivers at the residence. The Ordinances do not address the selling of items on property.

Supervisor Connie Anderson- address the Town Board

Supervisor Connie Anderson submitted a letter of resignation to the town board. She will be resigning from the Town board effective March 24, 2006. This resignation will allow the position to be on the ballot for the March 2006 elections, so a new supervisor may be elected to fill the remaining one year term.

Supervisor Mark Malecha assumed the position of chairman of the board for this issue:

The Eureka Town Board reviewed the resignation, noted the effective date and Supervisor Mark Malecha proposed the following resolution: Let it be resolved that the town board of Eureka for whereas accepts the resignation of Connie Anderson as Supervisor effective March 24, 2006. Supervisor Mark Malecha voted in Favor, Supervisor Gloria Belzer accepted and Supervisor Cheryl Monson accepted.

Other Business

Recap Short Course

This will be addressed at another time.

North Cannon River WMO Update

The North Cannon River WMO has passed the Model Ordinance for Erosion Control and Storm Water Management Requirement for Land Disturbances. The Town board has 120 days to adopt the ordinance. A public hearing will need to be set by the planning commission.

A motion by Supervisor Gloria Belzer to add to the agenda: Other Business C. Posters regarding State and Federal Labor Law. Motion seconded by Supervisor Connie Anderson. The motion carried.

Posters regarding State and Federal Labor Laws

Supervisor Gloria Belzer reported that Minnesota and Federal law requires employers to display some state- federal mandated posters in a physical location where employees can easily see them. A new minimum wage law went into effect on August 1, 2005.

Currently posters are located in the clerk's office. The clerk will check to see if they are current and move them to the entry.

Clerk/ Treasurer Presentation

Notary training online

The clerk requested to complete a notary training that is offered online for \$59.00.

A motion by Supervisor Cheryl Monson: To approve the online Notary training. Motion seconded by Supervisor Mark Malecha. The motion carried.

Deputy Clerk/ Treasurer

The clerk has had two applicants for the deputy position. The clerk would like to have the deputy work with her 2-4 hours per week, then the deputy could become familiar with the job. The clerk would share her allotted hours with the deputy, causing no additional expenses to the township. The town board felt that this would be considered job sharing and did not know if this would fall into the duties of the deputy position. The clerk will check with Minnesota Township association and report back to the town board at the December meeting.

Swisher Hygiene update

Swisher released the township from their contract. They removed the soap dispensers. They offered to leave the toilet and paper towel holders. We may purchase supplies from them, if we choose. The air freshener dispenser were also left, removal would damage the wall surface.

Door Stops

Door stops that mount on the doors were purchased. The clerk will check with the building inspector before mounting them, to make sure that code allows for installation.

A motion by Supervisor Cheryl Monson: To adjourn. Motion seconded by Supervisor Gloria Belzer.

Meeting Adjourned at 10:35 pm.