

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

Eureka Town Board Meeting of November 8, 2010

**Call to Order**

Chair Brian Budenski called the November 8, 2010, Eureka Town Board meeting to order at 7:01 p.m. Members present were Supervisors Nancy Sauber, Brian Budenski, Dan Rogers and Kenny Miller. Clerk/Treasurer Nanett Sandstrom was present to record the minutes. Ken Olstad was present as Planning Commission Liaison. See attached attendance sheet for additional persons in attendance.

The meeting opened with the Pledge of Allegiance.

**Approval of Agenda**

Westwind Education was not present for their CUP review. The review was due in October and was moved to November because they were not present in October. The Clerk was asked to contact Westwind about their review.

A motion by Supervisor Brian Budenski: To approve the November 8, 2010, agenda as presented. The motion was seconded by Supervisor Kenny Miller. The motion carried by unanimous vote.

**Public Comment Period**

A citizen had questions on the Country Stone operation. There are many more stacks of bricks. They are wrapped around past the north side of the building. She expressed concerns about the growing expansion of the site. There is black ooze coming out of the drain pipe and into the ditch from their holding pond.

The swales on the north side of the property are in place according to the plan agreed upon. There is a 10-foot buffer between the property lines. The property was surveyed.

**Treasurer's Report**

Checking Account Balance: \$5,934.40. Outstanding Checks: \$168.51. Savings Account Balance: \$186,878.61. CD Account Balances: \$64,021.18. The Ledger Balance as of October 31, 2010, is \$256,665.68.

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

**Bills and Receipts**

The Clerk presented the following bills for payment:

<b>Henry's Excavating</b>	Road maintenance thru 10/31/2010	<b>\$6,733.00</b>
<b>Dakota Electric Association</b>	Town Hall	<b>\$73.89</b>
<b>Frontier Communications</b>	Phone Service Town Hall	<b>\$111.94</b>

<b>Culligan</b>	Water Softener Town Hall	<b>\$28.51</b>
<b>Dick's Sanitation</b>	Garbage Service Town Hall	<b>\$42.61</b>
<b>Kelly &amp; Lemmons</b>	Legal Services thru 10/31/2010	<b>\$1,960.40</b>
<b>PERA</b>	Payroll Period 10/1/2010 to 10/31/2010	<b>\$224.16</b>
<b>Nanett Sandstrom</b>	Expenses 10/6/2010 to 10/31/2010	<b>\$85.27</b>
<b>MN Dept of Labor</b>	State Surcharge 3 <sup>rd</sup> Qtr	<b>\$76.51</b>
<b>T &amp; C Commercial Cleaning</b>	Clean Town Hall – November	<b>\$42.75</b>
<b>MNSPECT</b>	Inspection Service -October	<b>\$886.57</b>
<b>Carol Kelly</b>	PC Recorder- 10/1/2010 to 10/31/2010	<b>\$80.80</b>
<b>Nanett Sandstrom</b>	Clerk Payroll 10/1/2010 to 10/31/2010	<b>\$1,388.85</b>
<b>IRS</b>	November Deposit	<b>\$324.73</b>
<b>Castle Rock Materials</b>	Limestone	<b>\$155.12</b>
<b>TKDA</b>	Commercial/ Industrial Study	<b>\$503.67</b>
<b>Eureka Sand &amp; Gravel</b>	Road Gravel	<b>\$972.49</b>
<b>EMC Publisher</b>	Legal Ad	<b>\$70.00</b>
<b>Nancy Sauber</b>	Reimburse training	<b>\$48.00</b>
<b>Dan Rogers</b>	Reimbursement	<b>\$70.35</b>
<b>Cheryl Schindeldecker</b>	Election Judge	<b>\$60.00</b>
<b>Earl Schindeldecker</b>	Election Judge	<b>\$85.00</b>
<b>Marlene Swantek</b>	Election Judge	<b>\$142.50</b>
<b>Julie Larson</b>	Head Judge & Meeting Attendance	<b>\$260.00</b>
<b>Mary Ann Michaels</b>	Election Judge	<b>\$80.00</b>
<b>Elaine Swedin</b>	Election Judge	<b>\$70.00</b>
<b>Jody Arman Jones</b>	Election Judge	<b>\$80.00</b>
<b>Pat Fossum</b>	Election Judge	<b>\$70.00</b>
<b>Rose Buchanger</b>	Election Judge	<b>\$60.00</b>
<b>First State Tire</b>	Tire recycling	<b>\$7689.50</b>
<b>Eureka Sand &amp; Gravel</b>	Tire Recycling	<b>\$252.50</b>
<b>Eureka Sand &amp; Gravel</b>	Fuel for Ditch Mowing	<b>\$461.42</b>
<b>Julie Larson</b>	Mileage	<b>\$66.00</b>
<b>Otte Excavating</b>	Road Maintenance 1 <sup>st</sup> half of October 2010	<b><u>\$6,265.00</u></b>
<b>Total Bills Presented</b>		<b>\$29,521.54</b>

First State Tire and Eureka Sand & Gravel will be paid by the Township. There may be an additional charge by First State Tire for picking up 2 large tires that were not taken at the time of the tire pick-up day. Dakota County will reimburse the Township for the Tire recycling costs.

A motion by Supervisor Dan Rogers: To approve, and there may be additional costs over what has been approved for the tire pick up for First State Tire, so the bills may be submitted to Dakota County. To approve the Treasurer's Report, Claims List and Net Pay Account Distribution. The motion was seconded by Supervisor Nancy Sauber. Supervisor Kenny Miller voted on approval of all the bills except bills pertaining to Tire recycling. The motion carried by unanimous vote.

The Town Board reviewed the following financial reports prepared by the Clerk: Current Investments, Statement of Receipts and Balances, Cash Control Statement, Disbursements Register, and Receipts Register.

The following receipts were deposited in October of 2010:

- **Local Permits**

<b>Julie Larson-</b> Zoning Permit Application	<b>\$25.00</b>	<b>Julie Larson-</b> Zoning permit 001016	<b>\$25.00</b>
<b>Dakota Electric-</b> Utility Permit 2010-10-6	<b>\$25.00</b>	<b>Richard Martin-</b> Application Fee	<b>\$25.00</b>
<b>Capstone-</b> Permit ET10-003	<b>\$105.00</b>	<b>Vermillion Kennels-</b> License	<b>\$100.00</b>
<b>Andy Radford-</b> Permit ET10-004	<b>\$105.00</b>	<b>Joe Hendricks-</b> Permit ET-10-006	<b>\$205.00</b>
<b>Fireside Hearth -</b> Permit ET10-052	<b>\$70.00</b>	<b>Carol James-</b> Application Fee	<b>\$25.00</b>

- **Other Receipts**

<b>MN Assoc of Townships-</b> INS. Claim	<b>\$1,500.00</b>
<b>Applewood Orchard-</b> Dustcoating	<b>\$279.20</b>

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<b>TOTAL RECEIPTS AS OF OCTOBER 30, 2010</b>	<b>\$2,489.20</b>
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It was noted that Check No. 6060 is a voided check.

A motion by Supervisor Brian Budenski: To approve the Receipts Register, Disbursements Register as presented. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

### **Budget**

The Town Board reviewed the budget.

### **Contractor Time**

This item was addressed later in the meeting, when the Road Contractor was present.

### **Planning Commission, Permits**

#### **A. Richard Martin**

Richard Martin, 9774 250<sup>th</sup> St. W., requested to build a 12'x20' accessory building with 8' sidewalls for personal storage. The building will be built on a skid and will be anchored to the ground.

A motion by Supervisor Kenny Miller: To issue the building permit to Richard Martin as presented in his application for an accessory building. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

### **Other Business**

#### **F. Northern Natural Gas pipeline crossing on Highview Ave.**

A representative of Northern Natural Gas talked with Supervisor Kenny Miller about concerns he had with the Township issuing year-round 9-ton permits for access to Country Stone over the gas company's pipes under the northern part of Highview Ave. Since that time, Kenny has spoken to

other Northern Gas Right of Way Representatives. They said that the pipes were lowered a number of years ago to nine feet below the road and, therefore, it is not a concern to them today.

### **Sheriff's Deputy**

Deputy Sheriff Pederson stopped in to briefly talk with the Town Board.

Supervisor Dan Rogers had spoken with the Sheriff's Department on the Wat Lao complaint. They checked into the complaint and are following up on the issues.

The Joint Powers Agreement with the Sheriff's Department was discussed. Supervisor Brian Budenski commented that he has sent the Township Ordinances twice. The Clerk was asked to send the portions of the Ordinances that the Township wants the Sheriff's Department to enforce to Chief Deputy Tim Leslie.

### **C. Planning Commission Update-Ken Olstad, Chair**

*Planning Commission resignation-* Cheryl Groves resigned from the Planning Commission. The Clerk was asked to post the opening and place it in the newspaper.

*Public Hearing-* The public hearing for the two Ordinance updates, Buildable Lots and Subdivision, has been scheduled on December 6, 2010, at 6:30 p.m. The Township Attorney will be present.

*Road Tour-* The Planning Commission is scheduling its annual fall road tour soon.

*Comprehensive Plan-* The document has been updated to include the changes. It is being put together for review by the Met Council. Once the pre-approval is complete on those portions that needed additional work, the entire document will be given to the Town Board to be submitted to the Met Council for final approval.

*Building Permit Application update-* The Planning Commission was asked to update the Building Permit Application to reflect changes in the Ordinance. (The maximum total area of all accessory buildings or structures shall not total more than 200% of the primary structure total area. There shall be no maximum limitation to total area for agricultural buildings and agricultural buildings shall not be considered in the total sum of accessory buildings on an individual parcel.)

### **A. Scott Qualle- Building Inspector**

Scott Qualle presented the Town Board with a handout titled "Change of use and occupancy classification" *See attached document.*

The following Building Inspector issues were discussed:

*Glory to Glory Christian Center-* An approved alarm system was installed in the building.

*Wat Lao-* The permit has not been picked up or paid for. The Clerk sent a reminder on November 2, 2010. Their CUP review is in December, so they should be present then.

*Hawkins*- The permit has not been picked up or paid for. The case is set for jury trial in December.

*Buffington*- The permit has not been picked up or paid for. There are a number of issues with this permit.

*Country Stone*- The Clerk was asked to sent Scott the building permit information for Country Stone to make sure that the building permit was issued according to the current use of the building.

## **B. Lightly-framed (or Membrane) Structures**

The Town Board discussed lightly-framed structures with the Building Inspector.

Currently, if the lightly-framed or membrane structure can meet the wind and snow loads, it can be permitted as a permanent structure.

Township Ordinances state that the Building Official may issue a permit for temporary structures and uses. These are three in number and are listed in the Ordinances. All other temporary uses and structures are currently prohibited in the Ordinance. The Ordinances also state that building permits shall be required for all buildings, whether temporary or permanent in nature.

Scott expressed that lightly- framed or membrane structures would not necessarily need to meet the building codes as long as they are a temporary use (fewer than 180 days) and are not being used for public purposes. He bases this opinion on the wording in the MN State Building Code referring to ensuring health, safety, and general welfare of the public.

It was discussed that the Township Attorney, in speaking to the Planning Commission about ordinances at its last meeting, explained to them why all ordinances are based on providing for the health, safety, and welfare of the public and that “general welfare” can include the protection of property values. This could lead the Township to put performance standards in place in the Ordinances to that end. Again, the Ordinance requires permits for all buildings, temporary or permanent.

The permit fee for any permanent structure is based on valuation, in keeping with the State Building Code.

It was generally agreed that membrane Structures could be permitted as temporary structures. It was also generally agreed that they must meet the building code and could be permitted by means of a Maintenance Permit- \$105.00. By doing so, the Township could verify that the membrane structure is placed in the right spot and also verify that it is taken down. If it were not taken down, it would be a permanent structure and would have to be permitted as such.

Seasonal use structures such as some pools are permitted as a recurring use. They are permitted once and can be taken down and put up again each year as long as the size and location doesn't change.

Work on this topic continues. Supervisor Nancy Sauber will speak with the Township Attorney on this matter.

The Town Board reviewed the Building Inspector's contract. It was agreed to renew the contract as a three-year contract. Scott Qualle will draft changes to the contract for approval at the December Town Board Meeting. Board members expressed a high level of satisfaction with Scott's work, stating that there have been no complaints and that he works in keeping with the Code, which is as it should be. Scott expressed his appreciation for working with the Township and that he is always receptive to calls.

#### **E. Outdoor Assembly Ordinance**

The Town Board received the draft ordinance from the Township Attorney. There were no changes made to the draft.

A motion by Supervisor Nancy Sauber: To adopt Ordinance 2010-4: An Ordinance Amending Township Ordinance 5, Chapter 3, Relating to Outdoor Assemblies. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

A motion by Supervisor Nancy Sauber: To approve the summary of Ordinance 2011-4 as drafted by Trevor and its publication. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

At 8:55 p.m. the Town Board took brief break. At 9:05 p.m. the meeting resumed.

#### **Old Business**

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

**Country Stone-** The Settlement Agreement has been signed. A copy was made and sent to the Township Attorney to file with the courts. The drain field location and well location have been added to the most recent plans, dated October 13, 2010.

Ron Bjustrom is trying to have the trees for screening placed already this fall, if possible. The trees should block the view of the building and the palletted materials from 225<sup>th</sup> St. W.

#### **Road Contractor Time**

Brush cutting for this year has been completed. About 75% of the brush cutting in the Township has been completed.

Road signs were discussed. The Road Contractor would like to take inventory of the road signs and develop a plan for replacement of the signs. The Town Board decided to wait until spring to do the sign inventory, due to budget restrictions this year. The Township must have its plan in place by 2012 and the plan implemented by 2015.

The "No Dumping" signs have been installed. Four "Welcome to Eureka" signs need to be replaced.

A motion by Supervisor Kenny Miller: To spend approximately \$500 on five "Welcome to Eureka" signs, 20 base and 20 sign posts. The motion was seconded by Supervisor Brian Budenski. The motion carried by unanimous vote.

## **Old Business (continued)**

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

#### **1. Mahoney follow-up**

The Clerk sent a follow-up letter on October 21, 2010. No response has been received. Further discussion on this item will take place at the December Town Board Meeting.

#### **2. Progressive Insurance Claim-Town Hall Damage**

The insurance claim for the tree replacement is still being processed. It is unclear if the driver's insurance will pay for the tree replacement. The Township's insurance agency is working on the claim with the other agency.

#### **3. Non-Compliant Septic letters**

The Non-compliant septic letters were sent out on October 21, 2010. Several responses have been received. The Clerk contacted Michael Rutten, Dakota County Environmental Specialist, on what is required for proof of pumping. She is gathering records to be sent to the County.

In the case of a non-used system, the Township Board has administrative authority within their Township Septic Program to set a policy that a vacant property could have the needed pump date extended by the amount of time that the property has been vacant.

#### **4. Windmill Mine Response from TKDA**

The Town Board discussed Ron Quanbeck's response to the Windmill Mine proposed revised site plan. The berm height and slope need to be labeled on the plan. (Minimum 8 feet and 3:1 slope) The seeding mix on the berms needs to be specified. Kenny Miller, Owner/Operator of Windmill, asked that Ron Quanbeck make a site inspection of the property to discuss the issues addressed in comment no. 3. Kenny agreed to make changes to the plans as presented by Ron Quanbeck and discussed by the Town Board.

A motion by Supervisor Nancy Sauber: To table the approval of the Windmill site plan until after Ron Quanbeck completes a site inspection. The motion was seconded by Supervisor Dan Rogers. A friendly amendment was offered by Supervisor Brian Budenski: must schedule the inspection prior to the December Meeting. Nancy and Dan accepted the amendment. The motion carried by unanimous vote.

### **5. Other**

#### *As-builts on County Septic Systems*

The Clerk has not heard back from the County on receiving County septic issued as-built records. She will contact the County again.

#### *Kelly Aggregate Sign*

The Clerk sent the letter on November 2, 2010, to Kelly Aggregate on the permanent placement of their sign.

*Wat Lao complaint*

Supervisor Dan Rogers reported that the Sheriff's Department told him that because it is church property that they can't do anything. Supervisor Nancy Sauber stated that even though they are a religious organization, they still need to get building permits, for example. Nancy will check on this with the Township Attorney.

Wat Lao is scheduled for CUP review at the December Town Board Meeting. This issue will be brought up at that time.

*Commercial/Industrial Study*

The proposed survey, which is to be discussed at the Force's November 15<sup>th</sup> meeting, will be sent to the Town Board for review at the December 13<sup>th</sup> Town Board Meeting.

*Tire Collection*

The Otte Excavating bill of \$225 for sweeping the Town Hall lot after the Tire Collection will be added to the bills sent to the County for reimbursement.

**Minutes**

A motion by Supervisor Nancy Sauber: To approve the Eureka Town Board Meeting minutes of September 13, 2010, as presented. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

A motion by Supervisor Nancy Sauber: To approve the Eureka Town Board Meeting of October 12, 2010, meeting as presented. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

**Clerk/Treasurer Presentation**

The Clerk asked for clarification on paying the bills relating to the tire collection. The bills should be paid now and not wait for reimbursement from the County.

The public hearing in Scott County for the GroWind application for a CUP has been cancelled.

A motion by Supervisor Nancy Sauber: To adjourn. Motion seconded by Supervisor Kenny Miller.

Meeting was adjourned at 10:10 p.m.