

Eureka Township
Dakota County
State of Minnesota

Eureka Town Board Meeting of December 10, 2012

Call to Order

Chair Brian Budenski called the December 10, 2012, Eureka Town Board meeting to order at 7:00 p.m. Members present were Supervisors Brian Budenski, Mark Ceminsky, Pete Storlie, and Kenny Miller. Supervisor Steve Madden arrived at 7:17 pm. Clerk/Treasurer Nanett Sandstrom was present to record the minutes. Allen Novacek was present as Planning Commission Liaison. Township Attorney Chad Lemmons was present. See attached attendance sheet for additional persons in attendance.

The meeting opened with the Pledge of Allegiance.

Approval of Agenda

The following was added to the agenda: Roundtable with Planning Commission
New Business: Clerk- internet
Borowitz permit was removed from the agenda

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

Sheriff Deputy was present to address the Town Board and citizens present. Sheriff contact information was given to the Clerk for posting at the Town Hall.

Public Comment Period

Terri Petter officially requested a meeting sometime this week between two Board members or the full Board to see if we could discuss negotiations on a settling the lawsuit. She asked if she needed to put it into writing. Supervisor Brian Budenski asked her to put the request on the Clerk's desk. The Town Board will not discuss this at a public meeting.

Nancy Sauber asked if there will be a report from the NCRWMO meeting. Supervisor Steve Madden attended the meeting. He was not present at the Town Board meeting at this time to make a report on the meeting.

Treasurer's Report

Checking Account Balance: \$1,505.28. Outstanding Checks \$392.61. Savings Account Balance: \$359,417.05. CD Account Balances: \$69,563.35. The Ledger Balance is \$430,093.07.

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

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 11/30/2012	\$4,377.50
MNSPECT	Inspection Service – November 2012	\$489.08
Dakota Electric Association	Town Hall Electric	\$106.30
Frontier Communications	Phone Service Town Hall	\$213.70
Dick's Sanitation	Garbage Service Town Hall-Dec 2012	\$49.79
Culligan	Water Softener Service	\$23.51
Kelly & Lemmons	Service thru 11/30/2012	\$1,216.35
TKDA	Transfer Housing Study	\$663.06
TKDA	Hamburg Ditch Repair	\$1,727.59
Contech	Culverts	\$1,704.56
T&C Commercial Cleaning	Clean Town Hall November 2012	\$53.56
Castle Rock Materials	Limestone	\$50.53
Bituminous Roadways	Pavement Patching & Overlay	\$73,635.00
MATIT	Workers COMP	\$275.00
Lakeville Trophy	Engraved plates for wall	\$180.00
Anderson Bobcat Service	Sweep streets	\$150.00
Rose Suoboda	Election Judge Training	\$25.00
Linda Wilson	Expenses	\$96.40
Nanett Sandstrom	Expenses	\$899.57
Mark Ceminsky	Mileage	\$182.05
IRS	December Deposit	\$1,385.51
State of MN	Withholding 4 th Qtr	\$332.20
PERA	Payroll Period 11-1-2012 to 11-30-2012	\$364.78
Anderson Lime & Rock	Gravel- Blacktop edges	\$291.24
Dakota County Treasurer	2012 Truth in Taxation	\$191.50
Nanett Sandstrom	Payroll Period 11-1-2012 to 11-30-2012	\$1,199.96
Linda Wilson	Payroll Period 11-1-2012 to 11-30-2012	\$881.65
Brian Budenski	Supervisor Payroll 4 th Qtr 2012	\$434.01
Mark Ceminsky	Supervisor Payroll 4 th Qtr 2012	\$2,542.55
Steve Madden	Supervisor Payroll 4 th Qtr 2012	\$424.57
Kenny Miller	Supervisor Payroll 4 th Qtr 2012	\$424.57
Pete Storlie	Supervisor Payroll 4 th Qtr 2012	\$669.88
Lu Barfknecht	Commissioner Payroll 4 th Qtr 2012	\$283.05
Fritz Frana	Commissioner Payroll 4 th Qtr 2012	\$235.87
Carrie Jennings	Commissioner Payroll 4 th Qtr 2012	\$358.53
Allen Novacek	Commissioner Payroll 4 th Qtr 2012	<u>\$226.44</u>
Total Bills Presented		\$96,364.86
TKDA	Hamburg Ditch Repair	<u>-\$1,727.59</u>
Total Bills Approved		\$94,637.27

Road Supervisor Mark Ceminsky questioned the additional billing of \$1,727.59 for TKDA on Hamburg Ave. No additional plans have been received to justify an additional billing. Supervisor Brian Budenski will check with TKDA on the billing. The invoice will be held until January for payment.

Supervisor Steve Madden arrived at 7:17 pm.

A motion by Supervisor Brian Budenski: To approve the Claims Lists and Net Pay Account Distribution as presented with the exception of TKDA payment of \$1,727.59 that will be held until next month. The motion was seconded by Supervisor Pete Storlie. 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 November:

- **Local Permits**

Dave Hall- <i>ET12-027</i>	\$80.00	Gardner Builders <i>Permit 12-21</i>	\$38,250.00
Melissa Estrem- <i>ET12-028</i>	\$105.00	Champion Plumbing- <i>ET12-030</i>	\$80.00
Jill Woehrle- <i>ET12-029</i>	\$60.00		

- **Other Receipts**

Terri Petter- <i>Meeting recording</i>	\$5.00	Laura Larson- <i>Inspection</i>	\$100.00
Gloria Belzer- <i>Meeting recording</i>	\$5.00	MN Dept Finance- <i>FEMA Reimburse</i>	\$55,791.21
Mount Olivet- <i>In Lieu Of Taxes</i>	\$1,500.00		

TOTAL RECEIPTS AS OF NOVEMBER 30, 2012 **\$58,109.30**

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 Kenny Miller. The motion carried by unanimous vote.

Monthly Budget

The Town Board reviewed the Monthly Budget. An Escrow line was added for the FEMA funds that were received and a line for Road & Bridge Rebuild expenses to be reimbursed from Dakota County

Outstanding Invoices

The Town Board reviewed the Outstanding Invoice Report.

The Clerk spoke with Dave Sellner he said that he would stop in and pay for his permit in the next couple of weeks. Supervisor Brian Budenski commented that the contact person he was working with at Northern Natural Gas is no longer with the company. He is starting over with trying to collect the amount owed. The Clerk was asked to give the background information on the Sauber Trust to Supervisor Brian Budenski, he will review file with the Township Attorney.

Open Building Inspection Reports

The Town Board reviewed the Open Building Inspection Report. A short version was provided to the Town Board Supervisors for review. The entire spreadsheet shows the date of each inspection performed.

Resolution 2012-07 A Resolution to Contract with a Town Board Member

At the Special Town Board Meeting on December 5, 2012 the Town Board authorized Beaver Creek Co. to make repairs on the Town Hall and the heating system at the Town Hall. Supervisor Mark Ceminsky is the owner of Beaver Creek Co. A Resolution needs to be in place to contract with a Town Board member. Supervisor Mark Ceminsky recused himself from the Town Board on this agenda item.

A motion by Supervisor Brian Budenski: To approve Resolution 2012-07, a Resolution to Contract with a Town Board Member under MINN. STAT. § 47188, SUBD. 5. Motion seconded by Supervisor Pete Storlie. Motion carried by unanimous vote.

Contractor Time

Road Contractor Mark Henry was not present. Road Supervisor Mark Ceminsky reported on Road issues.

There are several property owners that are pushing snow across or into the road. It is illegal to push snow into the roadway. Letters will be sent to property owners that are doing this. The Next newsletter will include an article addressing this issue.

The culvert on 245th street has been repaired.

The Road Contractor was unable to plow Denmark Ave near Prairie Creek School because of vehicles parked on the road. The Clerk was asked to send a letter to let them know that they cannot park on the roadway.

Planning Commission, land use permits and related items

A. Land Use & Zoning Issues

1. Westwind Education CUP Review- 8215 240th St. W.

Representatives were present from Westwind Education for their CUP review. Advance Ed is a National Accreditation Organization and the whole Sterling System, with each one of its campuses has been individually accredited in 2011. They have three licensed teachers. A copy of their academic calendar was included in the documents. No complaints have been received over the past year. The Clerk was asked to send an invoice for the \$25 CUP review fee due.

2. Wat Lao CUP Review- 22605 Cedar Ave.

A representative was present from Wat Lao for their CUP review. No complaints were received over the past year. A copy of their celebration schedule was left with the Clerk. The review fee of \$15 was paid to the Clerk.

Dakota County Transportation Dept.- Brian Sorenson

Brian Sorenson, Dakota County Transportation Department was present to discuss two County transportation items with the Town Board: Improvements to Dodd Blvd and taking over 1/2 mile of Denmark Ave on the Castle Rock and Eureka Township border.

- 1. Dodd Blvd-** The County has obtained Federal Funds to reconstruct Dodd Blvd in 2014. To include reconstruction of the road, paving the shoulder, flattening slopes and adding turn lanes where needed. They are in the designing stage now. They are planning an open house at the Eureka Town Hall in February for public input.
- 2. Denmark Ave-** Dakota County is in the process of acquiring 1/2 mile of Denmark Ave (235th St to 240th St) The County is interested in taking over both Townships' responsibilities for this portion of the road. The Township Attorney will review the Statutes on joint roads to make sure the turnover is done properly.

Citizen Business

1. Complaint- 10132 235th St W.- fence placement

The Town Board received a complaint of a fence built by Terri Petter, 10132 235th St on Out Lot A in Rice Lake Heights. A map was included with the complaint showing the infringement to Out Lot A. The property owners asked Ms. Petter in May of 2012, to remove the fence from the property, but it has not been removed.

The Township Attorney commented that since both parcels are privately owned, any fence issue would be between the property owners. It does not involve the Township.

The Clerk was asked to send a letter to the complainant that the Township has no jurisdiction.

2. Complaint- 24565 Iceland Path

The Town Board received a complaint expressing concerns about possible ground contamination from an in ground car hoist at 24565 Iceland Path. They also asked for review of the properties building permit file to verify if permits have been pulled for projects that have been completed on the property.

The Town Board did not feel they had any jurisdiction over a possible ground contamination issue. They suggested that the complainant check with MN Pollution control on this issue. The Clerk was asked to review past permits on the property and to send the information to the Town Board.

Other Business

A. Planning Commission Update

Allen Novacek was present as liaison of the Planning Commission. Butch Hansen was also present from the Planning Commission. Butch commented that under Town Board advice Tower and Sign Ordinance work is closed. Commissioners have been assigned to the multi-family dwelling, 200% rule and road right-of-way ordinance work. They are seeking Attorney input on road right-of-way information. The Township Attorney will review what was previously sent on road right-of-ways and send out a memo.

A Roundtable meeting of the Town Board and Planning Commission was set for Monday, January 7, 2013 immediately following the Regular scheduled Planning Commission to discuss and clarify tasks assigned to the Planning Commission.

B. Road Review Report

The Planning Commission completed a Road Review Report from their Annual Road Inspection. The Report was briefly discussed.

C. Fire Inspections

The Lakeville Fire Department has agreed to complete two free fire inspections per year.

D. Rodent Control

An estimate for cost of rodent control in and around the Town Hall was received from Plunkett's Pest Control.

A motion by Supervisor Mark Ceminsky: To accept Plunkett's proposal for one year. Motion seconded by Supervisor Pete Storlie. Motion carried by unanimous vote. This item will be added to the April Town Board meeting for the proposed preventative maintenance program to be started.

E. Newsletter

The next newsletter will be published after the January Town Board meeting. Suggested additions to the newsletter were swap/ free ads and history of the Township. The Town Board agreed to community events, but not items for sale or free items. The newsletter will include information on the open house of the Transportation Department and Sheriff contact information.

At 9:00 pm the Town Board took a short break, the meeting resumed at 9:12 pm.

F. Road Committee Report

The Road Committee has identified roads and is in the process of setting a budget for the Town Board's Budget meeting in January.

G. Transfer Task Force Report

The Town Board has received email correspondence from the Task Force on their progress. The Task Force has scheduled two Open Houses: January 8, 2013 and February 26, 2013. They asked permission to send a postcard for the Open House on January 8, 2013.

An outline of the Task Force's mission was presented to the Town Board. Content of the Transfer Task Force Mission was discussed and clarified.

The Task Force requested written legal guidance. An outline of their questions for the Attorney was given to the Town Board for their consideration to forward to the Township Attorney.

A motion by Supervisor Kenny Miller: To have Township Attorney Chad Lemmons provide other Townships work. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

The Township Attorney will draft a document of the context of "rights" and "eligibility". He will also get answers back to the Task Force on the 4 questions outlined in their request by January 1st.

A motion by Supervisor Brian Budenski: To allow the Transfer Task Force to spend up to \$500 for a post card mailing for the first open house. Motion seconded by Supervisor Pete Storlie. Motion carried by unanimous vote.

Old Business

A. Misc Updates

1. Mike Mahoney - Complaint Follow-up- 8150 250th St. W.

Mike Mahoney was present to update the Town Board on his progress of cleaning up his property. He is making progress on cleaning up the junk.

2. Judge Ruling Non Conforming Use

There was a settlement agreement on this matter and it has been reduced to a Stipulation Order. The court is unlikely to issue any ruling because there was a settlement. Trevor will request the

Judge to make some kind of a ruling. Township Attorney Chad Lemmons commented that he doesn't expect any ruling from the court on Non Conforming Use. If there is no issue or controversy before the judge, there is no decision to be made. If there is no issue of controversy what is the purpose or effect of the decision than being advisory.

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

The Attorney's recommendation is to request an Administrative Search Warrant to enter the property to determine what is out there and going on. They could then determine if the Township should proceed criminally or civilly. The Township needs an update to see if the violation still exists.

4. Joe Miller-22260 Dodd Blvd

Change of use of a structure- as an accessory use it has to conform, it must be subordinate to the existing principle use. If it is different, then it is no longer an accessory use.

Joe Miller sent the Building Inspector a letter in response to his letter sent on November 19, 2012. The Township Attorney recommended sending the Building Inspector out to the property for inspection of the property. The Town Board agreed with his recommendation.

5. Charles Liane- 9020 235th St W

Mr. Liane is in Arizona for the winter, this item will be tabled until the April Town Board meeting.

6. Charles Roberts- 26110 Ipava Ave- setback issue

The Town Board asked that the Building Inspector make another attempt to speak with Mr. Roberts and report back to the Town Board.

7. Citation authority information

The Town has two methods of enforcing its Ordinances. One is Criminal the other Civil. Criminal is Misdemeanor- potential 90 days in jail or \$1,000 fine. You can commence a criminal action by a citation handed out by the Sheriff or the Attorney office can prepare a complaint to start the legal action. Civil- obtain an injunction or court order for the violation.

The Township Attorney confirmed that the Building Official has the right to issue citations. If he does not have a form the Township Attorney can provide a form. Issuing a citation only starts the process the Township still needs to enforce it. Any violation to Township Ordinances is a Misdemeanor.

Septic Non Compliance Enforcement will be tabled until April. Citations will be sent out at that time. This item will be added to the April Town Board agenda.

8. Nuisance Enforcement on Model Airplanes

A memo was received from the Township Attorney on clarification of Township Ordinances relating to airstrips. Flying model airplanes could be considered a nuisance under Township Ordinances if it is too noisy- disturbing the neighbors. The question is how you go about proving it. Someone would need to rent the necessary equipment to monitor the noise level and keep records and provide the proper chain of evidence.

9. Dave Sellner- Outstanding Building Permit-24535 Iberia Ave

The Clerk spoke with Dave Sellner. He said that he will pay for and pick up the permit within the next few weeks.

10. Chris Nielsen- Advertising Sign Complaint- 25756 Galaxie Ave

The Clerk received two emails from Chris Nielsen. He is working with Dakota County on possible placement of the sign. He will submit an application for the sign to the Township once he knows where it can be located. The Clerk was asked to send him notice that this must be done by the January 14th Town Board meeting.

11. Sheriff Joint Powers Agreement

The Clerk received an email from Tim Leslie informing the Town Board that the Sheriff's Office is moving forward with drafting the Agreement. As submitted it appears that all of the Ordinances are related to public health and safety issues.

12. Clarification on Public Data

A memo was received from the Township Attorney on Clarification of Attorney responses. If the Town Board wishes to waive Client confidentiality it has the right to do so. This should be done by motion. Any communication from the Township Attorney office to the Township should be considered Attorney-Client privileged.

13. Applewood Orchard Memo

The Town Board did not discuss this memo and did not release it as a public document.

Clerk/ Treasurer Presentation

A motion by Supervisor Mark Ceminsky: To pay up to \$60 per month for internet service for Clerk Nanett Sandstrom because she does a lot of work off site because of her schedule. Motion seconded by Supervisor Steve Madden. Motion carried by unanimous vote.

Minutes

A. Special Town Board meeting of December 5, 2012

A motion by Supervisor Brian Budenski: To approve the Special Town Board meeting minutes of December 5th as presented. Motion seconded by Supervisor Mark Ceminsky. Motion carried by unanimous vote.

B. Town Board meeting of November 12, 2012

A motion by Supervisor Brian Budenski: To approve the Eureka Town Board Minutes of November 12, 2012, as presented. Motion seconded by Supervisor Mark Ceminsky. Motion carried by unanimous vote.

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

The Meeting adjourned at 10:43 p.m.