

Eureka Township

Dakota County

State of Minnesota

Eureka Town Board Meeting
December 14, 2009

Call to Order

Chair Jeff Otto called the meeting to order at 7:03 p.m. Members present were Supervisors Nancy Sauber, Brian Budenski, Jeff Otto and Dan Rogers. Supervisor Carrie Jennings arrived at 7:10 p.m. Clerk/Treasurer Nanett Sandstrom was present to record the minutes. See attached attendance sheet for additional persons in attendance.

The meeting opened with the Pledge of Allegiance.

Approval of Agenda

The following changes were made to the agenda:

- New Business: A. Ordinance Update Issue
- B. Lakeville Fire Chief

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

Public Comment Period

No public comments were made.

Treasurer's Report

Checking Account Balance: \$253.49. Savings Account Balance: \$67,850.94. CD Account Balances: \$139,439.17. Total Account Balance: \$207,290.11.

The clerk reported CD rates were pretty much the same. She suggested that the money not be placed back into a CD but be left in the Savings account. Tax payments from Dakota County for the first half of the year are made in July. The second half of the year is made in December. The current savings account balance does not adequately cover bills for the year. Monies need to be transferred between accounts to balance accounts. The Township is not spending beyond the budget. There just isn't enough money in the savings account to keep the accounts fluid. It is a cash flow issue.

Cash Control Statement, Statement of Receipts and Balances, Disbursements Register, and Receipts Register were reviewed by the Town Board. It was noted that check no. 5798 is a voided check.

A motion by Supervisor Jeff Otto: To accept the Financial Reports as presented. Motion seconded by Supervisor Dan Rogers.

A motion by Jeff Otto to approve the Treasurer's Report as presented. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

The Town Board reviewed the Claims List for Approval and the Net Pay Account Distribution. It was noted that the Cross Nursery bill will be sent to Progressive Insurance for reimbursement.

A motion by Supervisor Carrie Jennings: To approve the Claims List and Net Pay Account Distribution as presented. The motion was seconded by Supervisor Nancy Sauber. Roll call vote was

taken on the motion. Carrie Jennings- aye, Brian Budenski- aye, Jeff Otto-aye, Nancy Sauber- aye and Dan Rogers- aye. The motion carried by unanimous vote.

Deputy Sheriff- A Deputy Sheriff stopped in to address Board and citizen questions. All calls made to the Sheriff Department are to be made to 911.

Bills and Receipts

The Clerk presented the following bills for payment:

Otte Excavating	Road maintenance thru 11/30/09	\$8,940.00
MNSPECT Inc.	Inspection Services November 2009	\$7,456.41
Dakota Electric Association	Town Hall	\$88.72
Frontier Communications	Phone Service Town Hall	\$126.02
Culligan	Water Softener Town Hall	\$23.51
Dick's Sanitation	Garbage Service Town Hall	\$40.42
Kelly & Lemmons	Legal Services thru November 30, 2009	\$1,518.75
IRS	Deposit 941 December 2009	\$923.15
PERA	Payroll Period 11/1/09 to 11/30/09	\$300.84
Nanett Sandstrom	Expenses 11/1/09 to 12/7/09	\$256.53
Dale Kuchinka	Ditch mowing	\$1,240.00
Cross Nursery	Replace Trees	\$3,500.00
Kenny Miller	Mileage- road review	\$36.85
Brian Budenski	Reimburse dumpster	\$250.00
Dan Rogers	Town Board Supervisor 4th Qtr Payroll	\$258.58
Jeff Otto	Town Board Supervisor 4th Qtr Payroll	\$489.45
Brian Budenski	Town Board Supervisor 4th Qtr Payroll	\$258.58
Carrie Jennings	Town Board Supervisor 4th Qtr Payroll	\$350.93
Kenny Miller	Planning Commission 4th Qtr Payroll	\$184.70
Ken Olstad	Planning Commission 4th Qtr Payroll	\$147.76
Vince Mako	Planning Commission 4th Qtr Payroll	\$230.87
Pete Storlie	Planning Commission 4th Qtr Payroll	\$184.70
Cheryl Groves	Planning Commission 4th Qtr Payroll	\$147.76
Carol Kelly	Planning Commission Recorder	\$136.21
Nanett Sandstrom	Clerk Payroll 11/1/09 to 11/30/09	\$1,786.31
State of Minnesota	Withholding 4 th Qtr	<u>\$294.67</u>
Total Bills Presented		\$29,171.72

The following receipts were deposited in November of 2009:

• **Local Permits**

Tammy Mohn- <i>Septic Permit</i>	\$280.00	Jesse Treble- <i>Permit 09-51</i>	\$226.24
Property Claims Solutions- <i>Permit 09-47</i>	\$100.50	Sauber Plumbing- <i>Septic Permit</i>	\$280.00
Francie Madden- <i>Cluster Application</i>	\$25.00		

• **Other Receipts**

Carol Nassif- <i>Private Kennel License</i>	\$100.00	Ames- <i>Ordinance text Amendment Application</i>	\$400.00
MN Township Assn- <i>Ins Claim</i>	\$485.72	Ames- <i>Escrow text Amendment</i>	\$500.00
Mount Olivet- <i>In Lieu of taxes</i>	\$1,450.00	Mike Rose- <i>Town Hall Rental</i>	\$25.00

TOTAL RECEIPTS AS OF NOVEMBER 30, 2009 **\$3,872.46**

Budget

The Town Board reviewed the budget.

Contractor Time

The road contractors were present to address road issues.

The Town Board asked if a second plow could be used on Township roads in the case of severe snowstorms. The roads are plowed from the northern part of the Township to the southern part. One pass is done on all roads, which takes approximately 2 ½ hours, and then they are plowed to full width.

Two signs at 267th & Hamburg need to be replaced. The reflectivity is not good. The road contractors were asked to replace the signs.

A copy of the Planning Commission road report was forwarded to the road contractors.

Planning Commission, Land Use Permits and Related Items

A. Land Use & Zoning Issues

1. Madden Cluster- Francie Madden was present to represent the application. The Township Attorney had been contacted on this request. Because of language in the current Ordinance stating the qtr/ qtr section would no longer be buildable, he recommended not approving the cluster as requested. The building right would be coming from the lot of record, which is less than a qtr/ qtr section. In order to allow the cluster as presented, the Ordinance language would need to be changed before proceeding. The Madden Trust has waived the 60-day Rule on the lot split. The Town Board recommended that they also waive the 60-day Rule on the cluster request to allow for possible ordinance changes.

Francie commented that they are not using clustering to create additional building rights. They are trying to create a building site that does not have a driveway that takes up 5 acres of farm land.

2. Kelly Aggregate Text Amendment request- administrative procedure

The Clerk asked if letters should be sent out to all property owners within 1,000 feet of existing mining operations as part of the public hearing, as was done in connection with the last text amendment request by Kelly Aggregate. The Ordinance does not specify a mailing for this type of request.

The Town Board briefly discussed the request. Kelly Aggregate is requesting a text amendment change to Ordinance 6 to allow for Recycled Aggregate Products and to allow Ready- Mixed Concrete and Asphalt Production Plants.

Discussion included having the Board participate in an on-site facility inspection of operating plants that would be similar to the type of plant that is proposed. In taking part in such an inspection, the Board could gather more information concerning this request. The Township Attorney and Engineer should be included. The Township Attorney had been contacted about this information-gathering approach, and he expressed the opinion that it could be beneficial. Supervisor Carrie Jennings stated that the watershed and conservation district staff should also be included early in the process. (These staff persons were on the Land Use Alteration Plan (LAP) panel for the Interim Use Permit request from Kelly Aggregate for the Level 3 pit.)

The Town Board members decided that they should take time to familiarize themselves with the request before proceeding with a public hearing. The Commission had scheduled a public hearing for January 5, 2010. The Clerk was asked to cancel the publication of the hearing and contact the

Planning Commission. Supervisor Jeff Otto and Supervisor Carrie Jennings will make contacts and work on scheduling Special Meetings for the Board to meet with VRWJPO and SWCD staff and others for the informational purposes described above. The Engineer will not be part of the initial discussion.

C. Other Business

1. Westwind CUP Review

Tom Chellberg of Westwind Education was present to represent the annual review. The entire pole building is being used as a gymnasium two days per week. This summer, the building was temporarily used to store a family's belongings during a move. (Item 6 in written complaint mentioned below.)

The Township had received a written complaint on activities that were said to have taken place at the site. Westwind presented the Town Board with a written response to the complaint. The complaint items were discussed: *see attached complaint 11/17/2009 and response to complaint lodged against Westwind Education Inc. dated December 14, 2010.*

1. Labor Day Weekend- Kids shooting off a gun in the backyard. Tom Chellberg commented that two young adults had discharged firearms on the property while engaging in target practice. They were part of a volunteer group cleaning up the yard. In response, Westwind sent a letter to all parents of the school that this is not a sanctioned activity. *See attached letter from Westwind Education to parent/s of Students attending Westwind School 2009-2010, dated 12/14/09.*
2. The burning of yard waste. Yard waste from the site was burned, and some was brought from off-site and burned there as well. This activity was not sanctioned or approved by Westwind School. Reference to this was included in the letter to the parents. Burning is to be permitted through the Local Fire Department.
3. They have some sheets of plywood stored in the small shed that will be used during an upcoming fund raiser to protect the lawn.
4. Previously addressed under item 2.
5. Trailers parked on property. Tom Chellberg commented that a storage trailer containing a family's personal items during that family's move was parked on the property last winter. It is no longer on the property. A trailer containing aluminum cans is currently stored on the property. It has been moved to the school side of the pole building, which would reduce unsightliness for neighbors. The Clerk was asked to send a copy of Westwind's response to the complainant.
6. Previously addressed in initial conversation with Mr. Chellberg.

Documents were given to the Clerk to document the fulfillment of Reporting Requirements of the MN Education code as outlined in Condition 2 of their CUP. These documents will be distributed to the Town Board. If there are any questions, they will be addressed next month.

Parking on the property across the street was discussed. The Town Board recommended that Westwind contact the property owner for permission to park on the property.

At 9:00 p.m. the Town Board took a brief recess. The meeting resumed at 9:10 p.m.

Citizen Business

A. Fritz complaint

Dan Fritz was present to address the complaint. Mr. Fritz had provided a written statement for the Town Board. The Board asked for clarification on his response. When he drives a car home from the dealership, his car stays at the dealership, so there is no increase in the number of vehicles from that activity. When he works on cars for family and friends, he tries to keep it to a minimum- one or two at a time. They are usually stored inside. The two cars he is personally restoring are stored inside the building. The Town Board informed Mr. Fritz that Township Ordinances allow for two vehicles per licensed driver at the residence and to keep this in mind when he is doing work for family and friends. This summer his father was staying at his house, and he had two cars and a trailer. They are no longer present. A junk car was kept on the property for a few months this summer to take off spare parts. It has been removed from the property.

The Township has an allowance for in-home businesses. There are no provisions for a business in an outbuilding. The work being done on cars was characterized as a hobby, not a business. Dan Fritz agreed with this statement. The Clerk was asked to send a response to the complainant.

Building Inspector Related Business

Wat Lao- outstanding building permit for fence

The Wat Lao CUP is due for review in December. No representative was present. The Clerk will send notice for a review in January.

Scott Qualle, Township Building Inspector, was present. He updated the Town Board on the issue of the lack of a building permit for the fence project. To date, Wat Lao has failed to obtain a permit for the fence. A permit is required because the fence is over six feet in height. Several stop work orders have been issued. Work had continued on the wall. Scott also had concerns with a building that is located across lot lines. The two parcels need to be combined, Scott stated. Buildings are not allowed to be placed on two different properties.

Supervisor Carrie Jennings and Supervisor Dan Rogers will attempt to meet with Wat Lao representatives before the January Town Board Meeting to discuss these issues. Discussion on the building permit will be included in the annual review. Scott Qualle will check on the setbacks from the county road.

Buffington update

To avoid a trial date being set for the charge of a violation of the building code, Mr. Buffington agreed to submit an application for a building permit. Scott Qualle commented that the lawsuit is not against the Township or the Building Inspector, but is against the State of Minnesota. Mr. Buffington has commented that he is going to take this to the Supreme Court. The permit will not be issued to Mr. Buffington until he pays for the permit, which he still has not done.

Plastic Storage Structure Complaint

Scott Qualle had a conversation with Charles Roberts about the structure. Mr. Roberts is aware of the complaint. He claims it is a temporary structure and that he moves it around the yard. A boat and wood are stored in the structure.

Under current Township Ordinances, this is not a permitted temporary structure. Scott Qualle stated that the structure does not meet snow load, so that if it were to be considered instead as a permanent structure, it would not meet building codes and thus would not be allowed. It could probably be anchored to meet wind load, it could not meet snow load. The Ordinance would need to be changed to allow this type of structure as a temporary structure. Temporary structures may not exist for more than 180 days. Their temporariness is not a matter of what the construction

materials are, but how long the structure is in existence. The Clerk was asked to send Mr. Roberts a letter stating that the building needs to be removed from the property because it is not an allowed structure in the Township.

Butch Hansen Building Permit Fee and Inspections

No response to the attorney letter.

Hawkins Building Permit

A pre-trial conference is scheduled for December 23, 2009, unless notice is sent from Scott Qualle before the hearing date that all issues have been taken care of or at least are on track to be taken care of in the spring. No response has been made by the Hawkinses to date.

Phillipe Bros.

The Clerk updated the Town Board on the status of the certified letter. It was mailed on November 10th. The post office attempted delivery on November 12th. There is no other update available from the post office. It is presumed that the letter was not delivered.

The Town Board discussed the complaint and what information has been received on the property. The Clerk will send the letter again by regular mail.

Other Business

A. Planning Commission Update

Planning Commission member Kenny Miller updated the Town Board on Planning Commission happenings. They are working on finishing the Comp Plan and Ordinance updates. They are not going to tackle any new Ordinance updates until current updates under consideration are addressed.

Road Review Report- The report presented was a preliminary report. The Planning Commission is working on a final report. The Town Board asked for the information before their budget meeting in January.

Sauber Mine

The Clerk received the letter of completion of the reclamation as outlined in Resolution No. 2009-08. Kenny Miller provided a check to cover one half of the Township's expenses in resolving this matter. The Clerk released the letter of credit as directed at the October 13, 2009, Town Board Meeting.

Attorney Trevor Oliver has not written the letter to the Sauber Trust requesting payment of the other half of the bills. It should be written in the next few days.

Minutes Approval

The following corrections were made to the November 9, 2009, Town Board Meeting minutes: Page 3, under Met Council Items- move sentence in “()” after “any concerns”. Page 7, under Kelly Aggregate, it should read “is taking” and “have not.”

A motion by Supervisor Nancy Sauber: To approve the Eureka Town Board Minutes of November 9, 2009, as amended. The motion was seconded by Supervisor Jeff Otto. The motion carried by unanimous vote.

Dewatering Interceptor Line

Supervisor Carrie Jennings received a follow-up letter from Janell Miersch, DNR Hydrologist. All DNR information is public. The information could be put in the township newsletter or on the website.

Other Business

B. Newsletter

Supervisor Nancy Sauber presented a draft article on distance clarifications. The Town Board suggested that simple illustrations could be added showing distance requirements in the different situations. Carol Cooper had submitted a statement for clarification on an item in last quarter's newsletter. The Planning Commission opening on May 1st should be mentioned.

Cleaning Town Hall

The volunteer who is presently cleaning the Town Hall has put in her resignation. An ad was placed in the last newsletter seeking a replacement. No one stepped forward to fill the position as posted. The Town Board decided to seek professional cleaners to fill the position.

Professional Services Policy

The Town Board briefly discussed the policy. The draft currently under consideration was prepared by Cory Behrendt before he left the Board. The Town Board felt that it closely mirrors the attorney engagement policy and does not address non-attorney professional services specifically, as desired. Supervisor Nancy Sauber will contact Commission Chair Vince Mako to share the Board's comments.

C. Consultant Selection

Selecting a Consultant for a commercial/industrial study was briefly discussed. The Town Board should be prepared to address this at the January 11, 2010, Town Board meeting.

D. Lewis Kisch- 2009 Audit

The Clerk had received an engagement letter from Lewis Kisch for the 2009 audit. The Clerk also had received a letter of interest from Larson Allen in performing the Township Audit. A motion by Supervisor Brian Budenski: To contact Larson Allen and receive a proposal for auditing services for the 2009 audit. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote. The Town Board asked the Clerk to contact Larson Allen and receive an estimate.

F. Board of Appeals and Equalization

The County Auditor has set the Board of Appeals and Equalization meeting for Eureka for Tuesday, April 20, 2010, from 10:30 am to 11:30 am. A trained Board member and quorum must be present at this meeting.

Old Business

A. Misc Updates

Information Sharing Policy

Supervisor Nancy Sauber briefly explained further changes made to the draft since last month. The Board had no additional changes to offer at this time. The draft policy and a question for clarification will be sent to the Attorney for review.

Eureka Estates Parking Complaint

Supervisor Dan Rogers has driven by several times to check the status of the vehicles parked on the street. He contacted the Sheriff about ticketing and towing the black trailer. One car and a trailer have been removed. One truck remains. A truck is being parked in a cul-de-sac. The snowplow operator has asked that this truck be moved.

Other

Private Dog Kennel- Carol Nassif

Supervisor Carrie Jennings contacted Darrel Gilmer, Septic Inspector, on liquefied dog waste. He commented that a compliance septic inspection should have taken place as part of the sale. He will put it on his agenda to check out.

MAC Airport Update

Supervisor Dan Rogers updated the Town Board on the airport plans. MAC was not aware that 225th St. is a township road. The project plan includes the blacktopping of part of 225th St. The next meeting is Friday, December 18th, at the Lakeville City Hall.

Ditch Restoration on 225th St. and on 225th St. at Highview Ave.

Supervisor Brian Budenski met with Northern Natural Gas last week. Both projects were completed by Minnesota Energy. Minnesota Energy has talked to Calvin Pflaum and that ditch restoration on 225th St. will be done next spring. Brian is meeting with Minnesota Energy this week concerning 225th St. and Highview Ave.

CAPX2020

Supervisor Jeff Otto attended one of the public hearings. Jeff will compile documents to be sent by the January 15, 2010, comment period deadline. Notice will be posted on the Township website.

Attorney Follow-up Items

There remain some questions on the Building Permit form: *Is the signature of the property owner required to allow access for inspections for any permit?* There is a signature line for the property owner that, in part, acknowledges that payment of the plan review fee is required whether the project is completed or not. Should there be a separate signature line for contractors when they may be the ones submitting the form, such as for a re-roofing permit, when there is no plan review involved? The Attorney has not yet reviewed the language. Supervisor Nancy Sauber will send a write-up of the questions to Chair Otto to forward to the Attorney.

Asbuilts- The Attorney was to look into possible ways of recovering money paid for asbuilts that were not received. Jeff Otto will follow up on this with Mr. Oliver.

Referendum/ballot initiative issue from Annual Meeting: The Attorney will be asked what is possible and under what requirements.

New Business

A. Ordinance Update

A suggestion was offered for a change to the sign ordinance; that is, to remove the wording "...flashing, intermittent, rotating or moving..." so that what remains reads "...by fixed light or lights as a conditional use." The Town Board can initiate amendments to the Ordinances. The Board agreed with the suggested change, and it will be forwarded to the Planning Commission.

B. Lakeville Fire Chief

Lakeville Fire Chief, Scott Nelson, is retiring in July. The Town Board will send a card on behalf of the Town Board. This item will be added to the June agenda.

A motion by Supervisor Brian Budenski: To adjourn. Motion seconded by Supervisor Nancy Sauber. The motion carried by unanimous vote.

Meeting was adjourned at 11:54 p.m.