

Eureka Township

Dakota County State of Minnesota

Eureka Town Board Meeting
December 8, 2008

Call to Order

Chair Jeff Otto called the meeting to order at 7:05 pm. Members present were Supervisors Cory Behrendt, Brian Budenski, Jeff Otto, Carrie Jennings, Dan Rogers and Clerk/Treasurer Nanett Sandstrom, to record the minutes.

The meeting opened with the Pledge of Allegiance

Approval of Agenda

The following additions and changes were made to the agenda:

The review of the Minutes were moved to the end of the agenda

Old Business: B. Misc. Updates:

1. Brosseth EAW Update
2. Friedges/ Country Stone
3. Rural Collaborative Plan
4. Chub Lake Road Update
5. Comprehensive Plan Update
6. North Cannon WMO

New Business: A. RFQ Commercial/ Industrial Task Force

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

Audience Comment Period

Butch Hansen, 21620 Highview Ave., Farmington asked that the Board explain what their intentions are on the Non-Conforming Ordinance as it stands in the ordinance book and they plan what to do with the non conforming registrations. He is concerned that the Town Board is trying to do away with businesses that have registered as non-conforming businesses within the Township. He is concerned that the board is going to challenge the registration of non-conforming businesses.

The Town Board has not had any discussion on non-conforming businesses. Discussion specifically relating to Friedges/ Country Stone will take place later in the agenda.

Treasurer Report

Checking Account Balance \$3,246.93. Savings Account Balance \$37,492.70. CD Account Balances \$162,143.23. Total Account Balance \$202,882.86.

A motion by Supervisor Cory Behrendt: To approve the Treasurer's Report of December 8, 2008 as presented. Motion seconded by Supervisor Brian Budenski. Role call vote was taken on the motion. Supervisor Carrie Jennings- Aye, Supervisor Brian Budenski- Aye, Supervisor Jeff Otto- Aye, Supervisor Cory Behrendt- Aye and Supervisor Dan Rogers - Aye. Motion carried by unanimous vote.

Bills and Receipts

The clerk presented the following bills for payment:

Otte Excavating	Thru November 30, 2008	\$6,136.00
MNSPECT	Thru November 30, 2008	\$646.79
Dakota Electric Association	Town Hall	\$70.26
Frontier Communications	Phone Service Town Hall	\$124.58
Culligan	Water Softener Town Hall	\$23.43
Dick's Sanitation	Garbage Service	\$37.19
TKDA	Comp Plan 9/28 thru 10/25/08	\$457.06
TKDA	Prairie Creek School 9/28 thru 10/25/08	\$1,351.06
TKDA	Eureka Sand & Gravel 9/28 thru 10/25/08	\$1,054.93
TKDA	Brosseth mine 9/28- 10/25/08	\$5,527.82
Kelly & Lemmons	Legal Services thru November 30, 2008	\$878.90
Earl Anderson	Signs	\$384.19
Steiner Plumbing	Refund Application Fee- submitted twice	\$25.00
Kenny Miller	Mileage- road review	\$39.20
Connie Anderson	Mileage- deputy duties	\$12.87
PERA	Pay period 11/1/08 to 11/30/08	\$216.17
IRS	Deposit 941 December 2008	\$789.92
State of Minnesota	4 th Qtr Withholding	\$266.23
Nanett Sandstrom	Expenses 11/1 to 11/30/08	\$421.86
Cory Behrendt	Supervisor Payroll 4 th Qtr 2008	\$212.40
Dan Rogers	Supervisor Payroll 4 th Qtr 2008	\$304.75
Jeff Otto	Supervisor Payroll 4 th Qtr 2008	\$341.69
Brian Budenski	Supervisor Payroll 4 th Qtr 2008	\$212.40
Carrie Jennings	Supervisor Payroll 4 th Qtr 2008	\$380.00
Kenneth Miller	Planning Commission Payroll 4 th Qtr 2008	\$221.64
Sharon Buckley	Planning Commission Payroll 4 th Qtr 2008	\$221.64
Ken Olstad	Planning Commission Payroll 4 th Qtr 2008	\$230.87
Vincent Mako	Planning Commission Payroll 4 th Qtr 2008	\$221.64
Nanett Sandstrom	Clerk Payroll 11/1/08 to 11/30/08	\$1,441.81
Total Bills Presented		\$22,252.30

The following receipts were deposited in November:

• **Local Permits**

Minnesota Energy- Utility Permit	\$25.00	Bev Topp- Window replacement	\$100.50
Jeff Otto- Re-roof	\$100.50	BH Develop.- Application Fee	\$25.00
Steiner Plumbing- Application Fee	\$25.00	Dakota Electric- Utility Permit	\$25.00
Joe Miller Farms- Re-roof	\$100.50	BH Develop.- Demo Permit	\$110.85
Wayne Hallcock – Plan Review Fee	\$1,280.24	Erik Martin- Application Fee	\$25.00
Mary Kay Holzerland- Inspection	\$40.00	Lakeville Plumb.-Rogers perm	\$65.50

• **Other Receipts**

Jackie Brula-RASP Sign	\$12.83	Mount Olivet Retreat- In Lieu taxes	\$1,400.00
Gary Petrash- RASP Sign	\$15.66	MN Energy- Escrow	\$500.00
Peggy Madden- RASP Sign	\$15.66		

TOTAL RECEIPTS DEPOSITED IN NOVEMBER 2008 **\$3,867.24**

The Cash Control Statement, Current Investments, Statement of Receipts, Disbursements and Balances, Disbursement Register, Receipts Register and Claims list were reviewed by the Town Board.

It was noted that receipt no. 94928 is a voided receipt. Supervisor Cory Behrendt reviewed the attorney bill. All charges seemed to be in order.

A motion by Supervisor Cory Behrendt: to approve the Bills and Receipts as presented. Motion seconded by Supervisor Carrie Jennings. Motion carried with unanimous vote. Role call vote was taken on the motion at the end of the meeting to approve the claims. Supervisor Carrie Jennings- Aye, Supervisor Brian Budenski- Aye, Supervisor Jeff Otto- Aye, Supervisor Cory Behrendt- Aye and Supervisor Dan Rogers - Aye. Motion carried by unanimous vote.

The 2nd half taxes were received by Dakota County on December 2, 2008. The operating transfers that were made to pay bills will be returned to the proper funds.

Budget

The Town Board reviewed the budget.

Contractor Time

The Road Contractor was not present due to the weather conditions. They were present later in the meeting to discuss road business.

The \$1,000 ditch cleaning charge on 242nd Street and Idalia Ave. in Eureka Estates was discussed. This was a follow up project from a few years ago. Tree stumps were ground. In the spring the ground will be leveled and seeded.

A car has been parked on 242nd Street past Idalia Ave. for some time. Supervisor Dan Rogers will check with the Sheriff Department on this vehicle.

Two loads of chip rock are on hand for road sanding. The road contractors will submit a bill for these loads.

The DNR has informed the Township that the water gauge at Chub Lake will not be reset until next spring.

Planning Commission, land use permits and related items

A. Permit Requests

1. Vincent Kelly Permit Request

Brett Haan of DH Construction requested a building permit for Vincent Kelly- 23530 Jersey Ct., Lakeville for a new attached garage. (Property ID # 13-64000-021-01) The Building Inspector issued a demolition permit for the existing attached garage. It has been removed.

A motion by Supervisor Cory Behrendt: To approve the garage rebuild permit application for 23530 Jersey Court as presented. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote.

B. Land Use & Zoning Issues

1. Eric & Lori Martin- 26386 Highview Ave. Farmington

Lori Martin presented a lot split request for Property ID 13-02800-010-26. The Martins are requesting to divide their 40 acre parcel into 2 separate parcels. Parcel A will contain the dwelling and consist of 11 acres. The remaining Parcel B is 29 Acres. Parcel B does not contain any building rights.

A motion by Supervisor Cory Behrendt: To approve the lot split by Eric & Lori Martin at 26386 Highview Ave as presented, noting the annotations of the parcel. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote.

2. Temporary Structures- Pipe type frame structure with plastic covering.

Currently there are several of these type of structures located in the Township for Agricultural use. (Greenhouses) Being Ag use they do not have the same inspection criteria as structures addressed under the State Building Codes. There are no provisions in the current ordinances to allow this type of structure. These types of structures meet the ordinance definition of "structure" and require a building permit. In order to obtain a permit as a structure they would have to meet load bearing standards and wind resistant standards and they do not, so a permit cannot be issued on the structure. If this type of structure is to be allowed, then the ordinance would need to be changed. The current ordinance only allows three types of temporary structures.

The clerk will draft a letter to the property owner addressing the use of the structure, setback and permit requirements.

Township Attorney, Patrick Kelly commented that this is an issue in several communities. There is a draft ordinance addressing these types of structures. There is a separate classification. Mr. Kelly will forward the draft ordinance to the Planning Commission for their consideration.

Citizen Business

A. Sauber mine

Supervisor Carrie Jennings drafted a letter to be sent to Mr. Miller. The Township Attorney has reviewed the letter.

Ron Quanbeck, TDKA was present and addressed the Board. The mine was originally permitted and a restoration plan submitted. The restoration plan showed excavation over most of the site. The site would be graded and drained to the north wetland. The existing grading is much different than that. He presented a survey of the site. Rather than excavating the area and draining it to the north it drains to the southwest corner, with a pond. The elevations are significantly different. The property cannot be restored to the plans without grading the whole area. No reclamation plan has been approved by the Town consistent with the way the site is constructed. There are a number of issues. Protection of the ground water and the restoration of the vegetation are the main issues.

The letter drafted addressed these concerns: Raising the bottom of the site one foot, filling in the pond, adding topsoil on the raised area, burning vegetation and re vegetating it with a seed mixture. The site is to drain to the southwest onto the Tiller property. The adjacent property was actually graded so that it drains into the pond.

Tillers have graded their property so that water runoff from their property does not run into the pond.

The letter will be forwarded to the town clerk to be sent to Mr. Miller.

B. John Storlie- Alleged CUP Violations

The letter was drafted and sent to Mr. Storlie. Currently it is in the 30 day response period. This will be addressed at the January Town Board Meeting.

Other Business

A. Planning Commission Update

1. The Planning Commission asked if there is a update on obtaining files from past Building Official Bob Hegner. The attorney has not been in contact with Mr. Hegner on the status of the files. The clerk stated that there are missing as-built records. There are also outstanding issues regarding refunds due to the Township due to payment of services that were not provided. The clerk will put together a list of missing files to be forwarded to the Township Attorney.

2. Culvert on 235th St. W. of Cedar- The culvert on 235th St. W consists of two rectangular concrete culverts. One of these s have a large amount of sediment, so the water is flowing only through one culvert. The DNR inspected the culvert and took pictures. They are not concerned, this is a common occurrence. The DNR felt that it may flush itself out in the spring. If the Township wishes to move forward in the spring in cleaning out the culvert a permit will need to be obtained by the DNR.

3. Collaborative Water Plan Meeting- Supervisor Carrie Jennings is trying to setup a informative meeting to discuss the plan. The Township is responsible for enforcing the Vermillion Watershed Plan. They may turn the enforcement over to the Watershed. The Township needs to adopt the plan.

4. Vincent Mako has done traffic counts on 6 intersections, following up on the idea of extending the paved aprons on gravel roads where they meet paved County Roads. 240th St where it meets Dodd coming from the east was by far the highest count at 350 cars per day. Most other sites were 250 cars per day.

5. There is an all day Wetland Conservation Act training Class on December 18th. Planning Commission Member Nancy Sauber is attending the class.

Road Maintenance Hauling Ordinance/ Castle Rock Township

There is no preliminary cost estimate for ordinance language review by Dean Johnson. Castle Rock Town Board is asking for a commitment from Eureka Township for a 50/50 basis for the consulting review of the ordinance.

A motion by Supervisor Jeff Otto: That the Town Board agrees to support on a 50/ 50 cost share basis, the retention of Dean Johnson for Consulting Services to review the Joint Ordinance that is being worked out cooperatively with Castle Rock Township on a Heavy Haul Road Permit. Motion seconded by Supervisor Brian Budenski.

The amount of dollars to be spent was discussed. Town Board members were concerned that no dollar amount has been proposed for the development of the ordinance. The Township attorney and engineer were asked for advice.

A friendly amendment was made to the motion. The Township was willing to agree to spend \$500, once a more accurate estimate is obtained from Mr. Johnson their contribution to this matter will be reconsidered. Vote was taken on the motion. It passed unanimously.

B. Minnesota Energy Resources- Public Hearing

The Town Board received notice of a public hearing set for January 8, at 7:00 pm in Rosemount for Rate Increase Notice. Written comments are due by January 22, 2009. Supervisor Carrie Jennings will make an inquiry on the Town Board role in the process.

C. Dakota County Mapping Ordinance

A public hearing has been set for December 16, 2008 to receive comment on a proposed Official Mapping Ordinance. Written comments are due by December 10th. Supervisor Jeff Otto will submit written comments on behalf the Township.

Old Business

A. Misc. Updates

1. Brosseth EAW Update

A memo was received from TKDA identifying the comment period for the EAW. If all goes as scheduled the Planning Commission will make their recommendation to the Town Board at the January 5th, 2009 Planning Commission Meeting.

2. Friedges Country Stone

Supervisor Jeff Otto presented a written document "Considerations Regarding Friedges/ Country Stone Operation and Legal Non-conforming Status" see *attached 4 page document dated December 5, 2008.*

Mr. Bjustrom, Country Stone was not able to attend the meeting, due to weather constraints. Mr. Duffy was present to represent Friedges/ Country Stone. Ron Bjustrom is willing to sitting down and work with the Town Board to try and figure out something that can be done to make this thing work for everybody. One option mentioned is backup lights rather than backup sound. There is also a lower decibel backup bell available.

The Town Boards concern is that the scope of the business has changed since August 2004. The non-conforming use was bagging of soil. Now the use includes the chipping of wood. How do we stop this from progressing? They have moved beyond the non-conforming and have changed the characteristics of the business. Ron Bjustrom indicated to Supervisor Jeff Otto that the chipping of wood is a onetime event.

The Town Board asked the Township Attorney if Friedges is a legal non-conforming business under the current Ordinance. Mr. Oliver commented that under the literal reading of the ordinance- yes. The Ordinance makes all registered non-conforming businesses legal. The question is if the Township has the authority to do this. It leaves out the part of being lawfully established. The question is what to do about it. They are willing to come to the table and talk. This is a good path to take.

The letter from Mr. Duffy dated January 11, 2007 stated that all they are doing is bagging soil. Can we go back to this as a baseline? The building approved was approved as an alteration, not an expansion. Conditions were put on as part of granting the building permit. This was all that was allowed. It did not approve expansion. Use is limited to inside the building.

Butch Hansen commented that when he presented the building plan bagging of landscaping product was to be done inside and palletized inside and then loaded onto trucks. It was never stated that trucks were to be loaded inside. There is no room inside to load trucks. Supervisor Dan Rogers stated that he did not agree with the truck loading statement made by Mr. Hansen.

Jim Sauber commented that he appreciates that all parties are willing to talk and progress is going to be made. He does not feel that the conditions of building permit have been fulfilled. There are aerial photographs of September 7, 2004. Current photographs show change/expansion. New uses have started on this property. The new uses shall to conform to the ordinances. The Ordinance has not been applied to the new uses. The use in the permit was accepted, it was not approved at the meeting. The use was soil bagging. We need some clear understanding if a new baseline is set, then clear understanding needs to be established that is agreeable to all parties involved. They are asking that the use on the property fits with what was put on the property in 2004. The building is used and the requirements set on the permit are fulfilled.

Jeff Otto commented that a baseline target has been set to work with. If it is determined that an expansion has taken place a public hearing will need to be held on the expansion. Proper regulations need to be set on the business that is expected of any business located in the Township, such as hours of operation.

Mr. Duffy asked to set a time for a meeting to talk to the attorney on the issues that need to be addressed. He would like a working list of items to be addressed. The November 14, 2005 Town Board Meeting Minutes reflect the agreed upon use of the property.

At 9:35 pm the Town Board took a five minute recess.

3. Rural Collaborative Plan

The Town Board discussed the Rural Collaborative Plan. The Township needs to be familiar with the goals, policies and standards.

4. North Cannon Watershed Meeting

The NCRWMO is considering adopting the buffer standards from the Vermillion River Water Shed. This is a big issue, having a buffer requirement, that it cannot be mowed or grazed. They want to know what the Township thinks of the buffer language. They will be addressing it at their next meeting.

5. Chub Lake

The Township received a memo from the DNR on the installation of the boat access. They are now requiring a permit. This project was a joint effort with the DNR. Supervisor Jeff Otto was asked to contact Diana Regenscheid to try and help straighten out this matter.

6. Comp Plan Update

Formal submission of the 2030 Comprehensive Plan is due to the Met Council by December 31, 2008. In a memorandum, dated December 1, 2008, to the Town Board Berry Farrington of TKDA requested to make a formal submittal to the Met Council consisting of the Eureka Township Comp Plan and the two comment letters and to make the submittal so the plans are received before the deadline. *See attached Memorandum from TKDA dated December 1, 2008.*

A motion by Supervisor Cory Behrendt: To complete the request as stated in the memorandum from Berry Farrington, TKDA dated December 1, 2008. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote.

New Business:

A. RFQ Commercial/ Industrial Task Force

Supervisor Cory Behrendt will prepare the RFQ for the Planning Commission to review at their January Meeting. Mike Greco offered to update the list of candidates to send the RFQ to.

B. ALF Ambulance Service

ALF has joined with Allina Medical Transportation. Allina Ambulance will serve the Township under a contractual agreement with ALF Ambulance at no cost to the Township. Supervisor Dan Rogers is the ALF contact for the Township. He will contact Allina as a follow up to the letter received addressing this change over.

Minutes

The following corrections were made to the Special Town Board Meeting of October 14, 2008: Page 1- forth paragraph, last sentence should read: "What will be presented is related to Prairie Creek School and also requires a public hearing, so there was no reposting of the notice." Next Paragraph: "Eureka Township has been considering". Page 2, forth paragraph change "Financing" to "Financer". Sixth Paragraph, third line: "it" to "its" State of Minnesota Funding. Page 3, first paragraph, last sentence- add: or "have" any influence.

A motion by Supervisor Cory Behrendt: To approve the Minutes as amended for the Special Town Board Minutes of October 14, 2008. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

Supervisor Jeff Otto added a follow up comment to be entered into the record. The following comment was made by Supervisor Cory Behrendt and is part of the minutes of the Special Town Board Meeting of October 14, 2008: "We are also giving tax exempt status although it is rather marginal for the Township." Supervisor Jeff Otto commented that we actually weren't granting any special tax situation to them, only the Internal Revenue Service can do that. They are already a 501c3. It had to do with the interest rate they would be able to obtain from their private financing. Supervisor Cory Behrendt was trying to say, but didn't was the taxes received from the loan, which is a marginal amount, would be less, so the taxes coming back from the loan would be less.

The following corrections were made to the Town Board Meeting Minutes of November 10, 2006: Page 6, 5th paragraph, 3rd to last sentence should read; "there was less soil on the slopes" Page 9- CapX2020- name spelled as: "Craig Poorker"

A motion by Supervisor Cory Behrendt: To approve the November 10, 2008 Town Board Meeting Minutes of as amended. Motion seconded by Supervisor Carrie Jennings. Motion carried by unanimous vote.

A motion by Supervisor Cory Behrendt: to adjourn. Motion seconded by Supervisor Carrie Jennings.

Meeting adjourned at 10:27 pm.