

Eureka Township
Dakota County
State of Minnesota

Eureka Town Board Meeting
February 8, 2010

Call to Order

Chair Jeff Otto called the meeting to order at 7:07 p.m. Members present were Supervisors Nancy Sauber, Brian Budenski, Jeff Otto, Carrie Jennings and Dan Rogers. Clerk/Treasurer Nanett Sandstrom was present to record the minutes. Building Official Scott Qualle was present for his periodic visit. 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:

Land Use & Zoning Issues: A. 2. Krapu Lot split
C. e. Wat Lao Follow-up

Citizen Business: A. Phillipe follow-up

CUP Reviews were moved up before Land Use & Zoning Issues

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

As the poor weather was an issue, the Board agreed that it would first address the matters for which there were people present, even if out of order regarding the agenda, so that those people could leave.

Public Comment Period

None

Treasurer's Report

Checking Account Balance: \$316.81. Savings Account Balance: \$239,405.45. CD Account Balances: \$141,077.35. Total Account Balance: \$380,799.61.

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

The Town Board reviewed the Claims List.

A motion by Supervisor Jeff Otto: To approve the Claims List as presented. The motion was seconded by Supervisor Brian Budenski. 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.

The Town Board reviewed the Net Pay Account Distribution.

A motion by Supervisor Brian Budenski: To approve the 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; and Nancy Sauber- aye, Dan Rogers- aye. The motion carried by unanimous vote.

Bills and Receipts

The Clerk presented the following bills for payment:

Otte Excavating	Road maintenance thru 1/31/2010	\$9714.00
Dakota Electric Association	Town Hall	\$125.60
Frontier Communications	Phone Service Town Hall	\$126.15
Culligan	Water Softener Town Hall	\$23.51
Dick's Sanitation	Garbage Service Town Hall	\$40.49
Kelly & Lemmons	Legal Services thru January 31, 2010	\$9,962.39
IRS	Deposit 941 February 2010	\$490.12
PERA	Payroll Period 1/1/2010 to 1/31/2010	\$296.79
Nanett Sandstrom	Expenses 1/1/2010 to 2/2/2010	\$402.08
City of Farmington	Fire contract 2009	\$45,877.00
MyPrintAngel.com	Newsletter	\$251.50
Pete Storlie	Vendor Board	\$100.00
Castle Rock Bank	Loan Payment #11	\$26,446.19
Carol Kelly	PC Recorder- 1/1/2010 to 1/31/2010	\$214.71
Nanett Sandstrom	Clerk Payroll 1/1/2010 to 1/31/2010	<u>\$1,785.12</u>
Total Bills Presented		\$95,855.65

The following receipts were deposited in January of 2010:

- **Local Permits**

Wat Lao- CUP Review **\$15.00**

- **Other Receipts**

Chris Prose- Affidavit of Candidacy	\$2.00	Castle Rock Bank- Interest CD	\$200.73
Kenny Miller- Affidavit of Candidacy	\$2.00	Castle Rock Bank- Interest CD	\$656.17
Jason Curry Affidavit of Candidacy	\$2.00	Dakota County-Final Current Tax	\$11,192.34

TOTAL RECEIPTS AS OF JANUARY 31, 2010 **\$12,070.24**

Current Investments, Statement of Receipts and Balances, Cash Control Statement, Disbursements Register, and Receipts Register were reviewed by the Town Board. It was noted that receipt #223346 is a voided receipt.

A motion by Supervisor Carrie Jennings: To accept the financial reports 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

Jason Otte, Road Contractor, was present to address road issues.

Snow removal was discussed; very few complaints on roads have been received since the last meeting.

Land Use Permits and Related Items

B. CUP Reviews, Interim Use Permit and Non Conforming Use Mineral Extraction Facility Reviews

1. Hansen CUP Review for Private Airstrip

Butch and Mark Hansen were present for the CUP review. Butch Hansen commented that most of the dirt work is completed. Black dirt needs to be added and it needs to be seeded in grass. It is currently native grasses. They have not started on the other runway. It needs a lot of dirt work to be completed. It is a work in progress.

No complaints have been received.

A motion by Supervisor Dan Rogers: To accept the review of the February 23, 2004, Conditional Use Permit for the Hansens to operate a Private Airstrip. The motion was seconded by Supervisor Jeff Otto. The motion carried by unanimous vote.

The \$25.00 review fee was paid to the Clerk.

2. Mining Interim Use Permit and Non Conforming Use Mineral Extraction Facility Reviews d. Brosseth Mine

Pat Mason and Kelly Brosseth were present to represent the Brosseth Mine. A check for \$324.30 for the Annual Review Fee for the Interim Use Mineral Extraction Facility was received by the Clerk.

No written complaints were received in 2009.

The installation of the sign has been put on hold because of the sewer interceptor installation. Turn lanes will be installed early in the construction season, possibly in early June. They are coordinating with Butch McConnell, Dakota County Transportation. According to Eureka Ordinances, the sign will need to be placed fifteen feet back from the new road right-of-way that will be established at the time that the lanes are added.

Supervisor Carrie Jennings asked for clarification on the location of the monitoring wells. She commented that one well is showing a higher temperature than the other two wells. Additional data is needed to know if this is a concern.

A motion by Supervisor Jeff Otto: To accept the review of the Level 3 Brosseth Mining Permit for 2009. The motion was seconded by Supervisor Brian Budenski. The motion carried by unanimous vote.

Other mine reviews are addressed later in the minutes.

C. Other Business

e. Charles Roberts- Plastic pipe structure at 26110 Ipava Ave. (Complaint follow-up)

Mr. Roberts was present and addressed the Town Board about the letter he had received from the Board stating that he must remove this structure as it is not allowed by the Ordinances. He considers it to be a temporary structure. He commented that it is staked down. The structure is 12' x 22'. He feels it is a safe structure. It is located within the setback area, and he is willing to move it to meet the setback requirements. It is a commercial-grade structure, he stated.

The Town Board stated that this is an Ordinance issue. Temporary structures are those that exist for 180 days or less; temporariness is not defined by the type of construction. There are three types of temporary structures allowed in the Ordinances. The structure in question has been in existence well over 180 days and, further, it does not fit into one of the three allowed instances. As a permanent structure, it was the Building Official's opinion that it would probably not meet building codes in regard to snow load. It is a possibility that the Township Ordinances could be changed to allow such structures, but they are currently prohibited.

Since this structure was erected without a permit, and thus Mr. Qualle has not seen any plans for it, Mr. Roberts was asked to submit a building permit application and specifications on the structure so that the Building Official can determine whether it would meet the building code as a permanent structure. Mr. Roberts stated that he would do so.

a. Scott Qualle, Building Inspector

How permits are calculated

Building Inspector Scott Qualle presented the Town Board with a handout titled "How Permit Fees are Calculated" and explained the process. Mechanical and plumbing permits are a fixed fee. Wind power and solar permits are based on evaluation.

Prepaying of plan review fees was discussed. A permit deposit could be required to cover plan review fees. Scott Qualle volunteered to put together a table.

Supervisor Carrie Jennings expressed concerns with permit fees for alternate energy sources. She felt that high permit fees will discourage the installation of alternate energy sources.

Wat Lao fence permit

Scott Qualle has a wall sketch. He will e-mail the Township a copy. The issue of the building straddling two lots is being solved with the County. A letter will be sent to the County from the property owner requesting that the properties be combined. Supervisor Carrie Jennings is continuing to work with Wat Lao on the issues.

Ordinances

The Board discussed the fee schedule with the Building Official.

c. Mining Text Amendment

Pat Mason of Ames Construction and Kelly Brosseth, property owner, were present to discuss this issue. The Town Board asked for a waiver of the 60-Day Rule to allow the Township more time to examine this issue more thoroughly. Without the waiver, the Township would need to go ahead at this time with a public hearing and a decision in order to meet the timing required. The extension already taken unilaterally by the Township expires March 24, 2010. Pat Mason and Kelly

Brosseth agreed to waive the 60-Day Rule. Mr. Mason stated that he will send a written statement to the Clerk.

The Town Board discussed how to proceed with the application process. Tuesday, February 23rd, was the tentative date for a public hearing or, alternatively, for a meeting for a workshop/informational meeting. With the granting of the waiver, this date could be used for an informational meeting, rather than the hearing. It is intended that this meeting would include the Planning Commission, Town Board, representatives from both sides of the issue, and Township Attorney.

At 8:51 p.m. a break was taken. The Meeting continued at 9:02 p.m.

Commissioner Joe Harris

Commissioner Joe Harris stopped in to address the Town Board. He presented the Town Board with a model for a Joint Powers Agreement between the Township and the County of Dakota to allow for enforcement of local ordinances by the Sheriff. This is a one-year agreement. A new Sheriff will be elected in 2011, and a new agreement will need to be drafted at that time. Under this agreement, the Sheriff's Office would be able to issue citations to enforce Township Ordinances. The Township Attorney, not the County Attorney, would be the prosecuting Attorney in any cases that might result. The Town Board could decide whether or not to prosecute a citation. The Joint Powers Agreement will be sent to the Township Attorney for review.

The Township has \$24,500 in the Road and Bridge account. \$2,200 will be added at the end of this year. It can be used for any road projects at 50% cost share.

The County Capital Improvement Plan (CIP) was discussed. County Rd 80 is scheduled for blacktopping in 2013. Dodd is scheduled for reconstruction in 2013. County 84 (267th St. W.) is scheduled for 2014.

Paving of 245th Street from the Scott County line to Dodd Blvd. was discussed. This road was rebuilt during the interceptor installation. It would make sense to blacktop this road during the Dodd Blvd. reconstruction. This is currently a township road.

The Town Board discussed the proposed text change to the Mining Ordinance with Commissioner Harris. He suggested checking with Dean Johnson, as mining is his area of expertise.

A. Land Use Permits and Related Items- continued

1. Ag Preserve Applications

The Clerk presented a summary of Ag Preserve applications.

The Gerald and Elaine Swedin property is a new enrollment into Ag Preserve. Their land is currently in Green Acres. They are enrolling 6 parcels, for a total of 238.49 acres. They are initiating expiration in 8 years. (March 10, 2018)

Wayne and Candice Hallcock are re-enrolling 2 parcels and moving 3 parcels from Green Acres into Ag Preserve, resulting in a total of 435 acres.

Mary Ann Devney, of the Mary Ann Devney Trust, is re-enrolling 121 acres in Ag Preserve.

A motion by Supervisor Dan Rogers: To accept as written in the summary sheet: Elaine and Gerald Swedin, new enrollment into Ag Preserve; Wayne and Candice Hallcock, re-enrolling 2 parcels and moving 3 parcels from Green Acres into Ag Preserve; and Mary Ann Trust Devney re-enrollment. The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote.

2. Krapu lot split

The Krapu lot split is under a 60-day extension. Since the application was received, it has been determined that since the Township does not have a subdivision ordinance that requires Town Board approval for lot splits, the Town Board does not need to act on the lot split. Supervisor Jeff Otto will contact the Krapus and inform them that they may move forward with the lot split, if they desire to do so.

B. CUP Reviews, Interim Use Permit and Non Conforming Use Mineral Extraction Facility

Reviews- continued

2. Mining Interim Use Permit and Non Conforming Use Mineral Extraction Facility Reviews

a. Windmill Mine

The Town Board reviewed the Eureka Sand & Gravel mine IUP. Kenny Miller, Owner, was not able to be present. A check for \$369.00 for the Annual Review Fee for the Interim Use Mineral Extraction Facility had been received by the Clerk.

No written complaints were received in 2009.

A motion by Supervisor Brian Budenski: To approve the review. The motion was seconded by Supervisor Carrie Jennings. Discussion on the review continued.

Supervisor Nancy Sauber had a question as to whether the 1000' line of 10' pine trees placed 15' apart shown on the site plan had been planted on the west. The trees were to shield the road and the residence to the northwest. The line of trees is along part of the future mining area and also along the phase 1 mining area. If they have not been planted, when will this be done?

A motion by Supervisor Nancy Sauber: To table the review until the March Town Board Meeting. The motion was seconded by Supervisor Jeff Otto. The motion carried by unanimous vote.

b. Storlie Pit

The Town Board reviewed the Storlie Gravel Pit. John Storlie, Owner, was not able to be present. A check for \$150.00 for the Annual Review Fee for the Pre-Existing Non-Conforming Use Mineral Extraction Facility had been received by the Clerk. No written complaints were received in 2009.

The report submitted shows a fee of \$89.54 to be paid to the Township. However, \$150 is the minimum fee. Mr. Storlie had been contacted before the meeting and was asked to submit the minimum payment of \$150.00, which he did. The Clerk was asked to check the previous year's record. In 2009, Mr. Storlie paid \$94.34. The Clerk was asked to contact Mr. Storlie and have him submit the additional fee still owed for the previous year's review.

A motion by Supervisor Brian Budenski: The Town Board reviewed the Storlie mine and it is adequate. The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote.

c. Barton Sand & Gravel - Tiller

The Town Board reviewed the Barton Sand & Gravel Mine. No one was present to represent the review. A check for \$150.00 for the Annual Review Fee for the Pre-Existing Non-Conforming Use Mineral Extraction Facility was received by the Clerk. No written complaints were received in 2009.

A motion by Supervisor Jeff Otto: To approve the document provided for the review. The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote.

C. Other Business

Planner letter

Supervisor Carrie Jennings submitted a draft letter to be sent to Alan Brixius of Northwest Associated Consultants. Mr. Brixius had asked for a written reason for not hiring their firm. The Board reviewed the letter.

e. Wat Lao- continued

The Town Board discussed Wat Lao issues. Supervisor Carrie Jennings will continue working with Wat Lao to solve the issues.

d. Government Training Services (GTS) Courses

No new updates on the courses have been received as yet. Two Planning Commission Members are interested in taking courses. When the information becomes available, it will be distributed.

b. Planner Contract

TKDA submitted a draft of the Authorization for Professional Services for the Commercial-Industrial Land Use Study. The Town Board discussed the proposal. Supervisor Carrie Jennings will ask Sherri Buss to reorder the tasks to be consistent with option 2 which had been selected and to add a clause that if the Market Demand Analysis or the Met Council discussion is negative, then the Township would have the option to decide not to move forward, as had previously been discussed.

The amended proposed contract will be sent to the Township Attorney for review.

Citizen Business

a. Phillipe Brothers follow-up

Supervisor Jeff Otto submitted photos printed from Dakota County GIS of land use of the Phillipe property in 2002, 2005 and 2009. These photos will be placed in their file for future reference.

Planning Commission Update

No representative present because of the weather.

Other Business

A. Town Hall Cleaning

No additional bids have been received.

A motion by Supervisor Brian Budenski: To hire T & C Commercial Cleaning, Farmington, as the cleaning service for the Town Hall, provided they submit a Certificate of Liability Insurance. The motion was seconded by Supervisor Nancy Sauber. The motion carried by unanimous vote.

Minutes Approval

A. Regular meeting of January 11, 2010

Supervisor Nancy Sauber had been asked by the Clerk to review the draft minutes of the Town Board meeting of January 11, 2010. Nancy had submitted additional text on the Phillippe Brothers land use issue. This portion of the minutes as submitted to the Town Board was highlighted in red print for the Board's convenience. The Town Board acknowledged and accepted the minutes as modified by Nancy.

The following corrections were made to the January 11, 2010, Town Board Meeting minutes: Page 9, Carrie's statement for opposition to the Phillippe motion was removed. It was re-written as: "Supervisor Carrie Jennings voted nay because she felt that it is an expansion." Her written opposition will be attached to the January 11, 2010, minutes for reference.

A motion by Supervisor Brian Budenski: To approve the Minutes for the Eureka Town Board Meeting of January 11, 2010, as amended. The motion was seconded by Supervisor Jeff Otto. The motion carried by unanimous vote of those members voting. Supervisor Dan Rogers abstained from voting as he had not been present at the meeting.

B. Special Meeting of January 19, 2010

The Town Board reviewed the January 19, 2010, Special Meeting Minutes. A motion by Supervisor Jeff Otto: To approve the minutes as presented. The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote.

C. Special Meeting of January 26, 2010

The Town Board reviewed the January 26, 2010, Special Meeting Minutes. A motion by Supervisor Brian Budenski: To approve the minutes as presented. The motion was seconded by Supervisor Nancy Sauber. The motion carried by unanimous vote.

Old Business

A. VRWJPO Permit Coordination

Talks are continuing with VRWJPO staff over how best to coordinate permit handling so that they have the control they feel necessary to apply the Water Resources Management Ordinance rules that the Township declined to adopt. We are asking to be allowed to retain all other routine permitting for the convenience of our residents.

B. Fire Calls

The Clerk presented a breakdown of Farmington fire calls. The Town Board discussed charging multiple false fire calls and calls to illegal fires back to citizens. Township Ordinances would need to be written to allow for this to take place.

C. Misc Updates

1. Attorney Updates

a. Ordinance Amendment- rebuild policy

Township Attorney Trevor Oliver has reviewed the new language. He suggested changing all instances of "building right" to "building eligibility" to avoid confusion.

b. Organizing Amendment text

The Attorney recommended keeping track of resolutions and ordinances by using a year ## system. The main set of Ordinances should be updated as amendments are adopted. *See attached e-mail dated 2-8-2010 from Attorney Trevor Oliver for entire explanation.*

c. Retro Resolution- Water Plan.

The Attorney did not believe a formal resolution to adopt the water plan was necessary. The minutes or an extract of the minutes are enough to document the Board's action.

d. Hawkins

The Hawkins building code ticket case has been postponed to July 7th. The owners are expected to have taken all remedial action by that point.

e. Sauber Trust Letter

There was nothing new to report.

f. Bob Hegner status

There was nothing new to report.

g. Referenda guidelines/ table

The Attorney sent a table of all non-standard citizen ballot petitions and initiatives that he could find in MN Statutes. There is no real initiative or referendum authority in Township Government. The Annual Meeting must be held the same day as the Annual Town Election, which is fixed by Statute. *See attached e-mail dated 2-8-2010 from Attorney Trevor Oliver for entire explanation.*

h. Hansen Restrictive Covenant

The Clerk reported that Butch Hansen has not provided official proof of the recording from the County. He also did not submit a copy of the canceled check to Bob Hegner, as he had agreed to do. The Board agreed that the Attorney should again send a letter to Mr. Hansen, this time giving him a time limit whereby the above items need to be completed.

2. Other Ordinance updates

- a. Fees for filing Ag Preserve documents were discussed. A \$25 application fee was suggested to cover Clerk's time in reviewing the applications.
- b. Changing the 10-day period to notify for an incomplete mining application. The 60-day Rule allows for 15 business days; the Ordinance should be changed to reflect this.
- c. Additions to the Fee Schedule as discussed with the Building Inspector regarding the Mechanical and Plumbing stand-alone permits and Building Permits.

New Business

A. Township Elections

1. Appoint Election Judges

The Clerk asked that the following persons be appointed as election judges for the March 10, 2010, Township election: Julie Larson as head judge, Marlene Swantek, Cheryl Schindeldecker, Earl Schindeldecker, Elaine Swedin and Jim Cooper. A motion by Supervisor Dan Rogers: To

appoint the election judges as presented by the Clerk. The motion was seconded by Supervisor Nancy Sauber. The motion carried by unanimous vote.

2. Board of Canvass

The Board of Canvass date was set as March 11, 2010, at 7:00 p.m.

B. Employee Review Date

The review date will be set at the March Town Board Meeting.

C. Annual Meeting Assignments

The Town Board discussed the Annual Meeting presentation from the Town Board. Supervisor Jeff Otto will put together a PowerPoint presentation. A question-and-answer session will be offered by Chair Otto after the Annual Meeting.

D. Countertop extension

A motion by Supervisor Carrie Jennings: To have the counter extension installed. The motion was seconded by Supervisor Jeff Otto. The motion carried by unanimous vote. Supervisor Brian Budenski will take care of this item.

There was brief discussion on obtaining a tabletop podium, as had been discussed at an earlier meeting.

E. Census Boundary Data Validation

Supervisor Jeff Otto received documents from the Census Bureau validating Township boundaries. He faxed back an acknowledgment that the Township boundaries are correct.

Clerk/Treasurer Presentation

None

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

Meeting was adjourned at 12:21 a.m.