

Eureka Township
Dakota County
State of Minnesota

Eureka Town Board Meeting
April 14, 2008

Call to Order

Chair Jeff Otto called the meeting to order at 7:00 pm. Members present were Supervisors Cory Behrendt, Brian Budenski, Jeff Otto, Carrie Jennings and Dan Rogers and Clerk/Treasurer Nanett Champlain, to record the minutes.

The meeting opened with the Pledge of Allegiance

Approval of Agenda

Other Business B. was corrected to read: Newsletter
C. Response to Lakeville Development Plan

New Business A. Cedar Ave 4 lane

Misc. Updates- Pederson Resolution, Status of Friedges, sound system, Intersection at 235th St & Dodd Blvd.

A motion by Supervisor Dan Rogers: To approve the agenda as modified. Motion seconded by Supervisor Carrie Jennings. Motion carried by unanimous vote.

Audience Comment Period

Georgie Molitor brought to the Board's attention that one of the axle weight restriction signs on 225th has been changed to 9 tons. It looks like a sticker has been placed over the sign.

Ray Kaufenberg commented that he would like to speak later on the 245th St reconstruction. Public comment on this item will be taken when this item is discussed.

Minutes

The following correction was made to the March 10, 2008 Town Board Meeting Minutes: Page 3. First sentence- delete: "in early April" add: "before Memorial Day". A motion by Supervisor Cory Behrendt: To approve the March 10, 2008 Board Meeting Minutes as amended. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote.

A motion by Supervisor Cory Behrendt: To approve the Eureka Town Board Minutes of March 13, 2008 with the addition of the Supervisors names that made and seconded the motions. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote.

The following changes were made to the Reorganizational Meeting Minutes of March 31, 2008: Page 2- The date for the February Planning Commission Meeting is February 2, 2009. A motion by Supervisor Jeff Otto: To approve the Reorganization Minutes of March 31 with the correction noted. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

Treasurer Report

Checking Account Balance \$3,965.51. Savings Account Balance \$188,240.99
CD Account Balances \$156,841.03 Total Account Balance \$349,047.53.

A motion by Supervisor Cory Behrendt: To approve the Treasurer's Report of April 14th 2008 as presented. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote.

Bills and Receipts

The clerk presented the following bills for payment:

Otte Excavating	Services thru 3/31/08	\$4,905.00
Dakota Electric Association	Electric Town Hall	\$121.41
Frontier Communications	Phone service Town Hall	\$125.99
Dick's Sanitation	Garbage Service April	\$39.23
Culligan	Water softener rental	\$23.38
Central Valley	LP tank rental	\$5.83
ECM Publishers	Legal Ads	\$161.00
Kelly & Fawcett	Legal Services Thru 3/31/08	\$7,130.03
Minnesota Dept of Labor	Surcharge Report 1 st Qtr	\$43.50
Lakeville Trophy Co.	History wall update	\$22.50
TKDA	consultant service	\$3,369.60
Carrie Jennings	Reimbursement training	\$111.61
Nanett Champlain	Expenses 3/1/08 to 3/31/08	\$183.66
USPS	Newsletter postage	\$175.00
IRS	Deposit April 2008	\$571.71
PERA	Pay period 3/1/08 to 3/31/08	\$289.31
Cheryl Schindeldecker	Election Judge	\$60.00
Earl Schindeldecker	Election Judge	\$75.00
Marlene Swantek	Election Judge	\$135.00
Carolyn Papke	Election Judge	\$75.00
Barb Bachman	Election Judge	\$165.00
Julie Pflaum	Election Judge	\$95.00
Nanett Champlain	Postage for open house	\$156.00
Brian Budenski	Reimbursement for chairs	\$200.00
John's Custom Cabinets	Conference Tables	\$2,000.00
Nanett Champlain	Pay Period 3/1/08 to 3/31/08	\$1,688.02
Total Bills Presented		\$21,683.18
Dakota County Assn Officers	Onsite sewage treatment maintenance	\$1,443.42
Additional Bill (approved later in the agenda)		\$23,371.20

The following receipts were deposited in March:

• **Local Permits**

Jerry Zimmer- Application Fee	\$50.00	Wayne Hallcock- Move Building	50.00
Glory to Glory- Additional Escrow	\$1,000.00	Glory to Glory-Split Application	\$25.00
Mark Hansen- CUP review	\$15.00		

- Other Receipts

Dakota County—Aggregate tax	\$3,636.86	Castle Rock Bank- Interest CD	\$373.04
Ray Swedeen –History Fund	\$23.00	Castle Rock Bank- Interest on savings	\$1,779.31
Castle Rock Bank- Interest CD	\$341.08		

TOTAL RECEIPTS DEPOSITED IN MARCH 2008 **\$7,293.29**

Supervisor Cory Behrendt had reviewed the attorney bill. There will be a couple of adjustments. The bill will be paid as presented. The difference will be shown next month.

A motion by Supervisor Cory Behrendt: to approve the bills and receipts as presented. Motion seconded by Supervisor Dan Rogers. Role call vote was taken on the motion. Supervisor Cory Behrendt- Aye, Supervisor Jeff Otto- Aye, Supervisor Dan Rogers- Aye, Supervisor Brian Budenski- Aye, Supervisor Carrie Jennings- Aye. Motion carried by unanimous vote.

Budget

The Town Board reviewed the budget. The clerk is waiting for a breakdown of the attorney bill for Glory to Glory Church. At this time the legal fee column includes charges to the escrow account. This will be separated out once the itemized bill is received.

Road Contractor Time

There is a significant amount of garbage along the roadway and in the ditches. Road Inspection will take place on Saturday April 19, 2008. Supervisor Dan Rogers will check on street cleaning needs in Eureka Estates. Supervisor Jeff Otto and Supervisor Brian Budenski will put together the gravel bids for this year. Dust coating bids will be received. The lowest bid will be accepted and application made without further Town Board action.

There is a lot of gravel in the ditches. The Town Board asked for a proposal from the Road Contractor for sweeping of the ditches that people maintain. The Road Contractor has a power broom on a commercial lawn mower. They will put together a quote. Gravel in the ditches will be observed during the road inspection.

Planning Commission, land use permits and related items

1. Jerry Zimmer- 21931 Flagstaff Ave. Farmington requested a building permit to build a new home at 5654 225th St W. Farmington. Property ID# 13-00200-020-75

A motion by Supervisor Cory Behrendt: To approve the building permit for Jerry Zimmer as presented, including the driveway and septic. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote.

2. Glory to Glory Christian Center- Requested a lot split on property they will be purchasing from Lonnie Malwitz. A motion by Supervisor Cory Behrendt: To approve the lot split approval application as presented by Malwitz showing the corrected parcel preferences. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote. Once the split is filed with the County the Township will need to modify the Conditional Use Permit to reflect the parcel information.

Planning Commission Appointments

The Town Board received three applications for the two Planning Commission positions, Bill Kuhns, Vincent Mako and Ken Olstad. All three candidates were interviewed. Bill Kuhn’s application was received after the deadline published, thus the application could not be considered.

A motion by Supervisor Cory Behrendt: To appoint Ken Olstad and Vincent Mako to the three year terms on the Planning Commission beginning May 1, 2008. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote.

Chub Lake Boat Landing- Diana Regenscheid, DNR

The DNR had submitted a proposal for a boat ramp at Chub Lake. The Town Board submitted an alternate proposal. The DNR Regional Management team reviewed the alternate proposal. Diana Regenscheid addressed several concerns over the alternate proposal, which included safety issues as well as ecological issues and maintenance issues. County Engineers and the Trails and Waterways Division feel that they can construct a boat landing utilizing the existing channel that would not impact the area. The preferred proposal is the initial proposal by the DNR.

The Town Board asked if access to Chub Lake would be maintained if the road was abandoned by the Township. If the road was closed, the DNR would most likely want to maintain public access to the lake.

Prairie Creek School

There is a strip of land that is not owned by Prairie Creek School. In 1948 the parcel was donated to the Northfield School District. The Castle Rock School closed in 1971. In 1978 the Northfield School District gave the land and the building to Eureka Township. They thought that they were giving the strip of land to the Township also, but they didn't because it was on a separate deed. In 1981 Eureka Township gave the land to the Castle Rock Community Club. In 1984 Prairie Creek School moved into the building and purchased the land and the building for \$1. It was discovered recently that this strip of land is not owned by Prairie Creek. The Northfield School District is the current owner of the piece of property. Northfield School District wants to give the land to Eureka Township in hope that the Township in turn would give the land to Prairie Creek School as it should have in 1978. Northfield School District has the paperwork drawn up by their attorney.

The Township attorney was present. He will research the best approach to correcting the situation. The attorney questioned if the school will cover the research and transfer fees. The Town Board asked for an estimate on the cost of the research, and a letter authorizing the expenditure of the research before proceeding. The Township attorney will contact Northfield School District's Attorney.

Citizen Business

A. Mark Nelson- Airstrip CUP

Mark Nelson, 5525 265th St. W. Farmington was present for review of his CUP for a private airstrip on his property. (PID #13-02500-013-26)

Chair Jeff Otto opened the floor for public comment on the air strip. He asked three times for public comment, hearing none the public comment portion of the review was closed.

A motion by Supervisor Cory Behrendt: To indicate in the minutes that the review of Mark Nelson's Airstrip CUP happened on April 14th, 2008. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote.

B. Terri Petter- CUP Review Spirit Ranch I and Spirit Ranch II

Terri Petter, Dan Storlie and Ms. Petter's attorney was present to represent the CUPs.

Chair Jeff Otto opened the floor for public comment on Spirit Ranch I located at 24005 Dodd Blvd., Lakeville. He asked three times for public comment, hearing none the public comment portion of the review was closed.

The Town Board has not received any complaints on the operation. There are no anticipated changes to the operation in the coming year.

A motion by Supervisor Cory Behrendt: To acknowledge the review of the CUP for Spirit Ranch I on April 14, 2008. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

Chair Jeff Otto opened the floor for public comment on Spirit Ranch II located at 10132 235th St W., Lakeville. He asked three times for public comment, hearing none the public comment portion of the review was closed.

The Town Board has not received any complaints on the operation. There are no anticipated changes to the operation in the coming year.

A motion by Supervisor Cory Behrendt: To acknowledge the review of the CUP for Spirit Ranch II on April 14, 2008. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote.

C. Terri Petter- exotic animals

Ms. Petter's Attorney asked why this item is on the agenda as exotic animals. Terri Petter has fur bearing animals, which are legal to have in Agricultural zones in the Township. State, Federal and International Licenses were provided.

The Township has ordinances on exotic animals. The Township is trying to fully understand what type of animals Ms Petter has and how they fall under the Township Ordinances. The complaint received by the Township had concerns that exotic animals are being kept on the property.

Township Attorney Trevor Oliver was present to represent the Township. The issue is whether there is a conflict between the Township Ordinance that restrict exotic animals and Commercial Agriculture. The Township is requesting a site visit, to determine what types of animals are present on the property. Do these animals fit under commercial agriculture? The Township needs a list of animals, do they fit under the category of commercial agriculture. Is it truly an agricultural operation?

Terri Petter stated that her husband Danny Storlie is a licensed taxidermist. He mainly does all their own work. When animals die of natural causes, they are stuffed. No one comes onto their property. Animals are displayed in Empire Township. Terri Petter holds licenses from the DNR (2 big game licenses and game farm license), USDA and Minnesota Department of Ag. They oversee the operation. Ms Petter stated several reasons why she is not willing to have an outside inspection of the property, which included disease control, animal safety. The USDA does two surprise inspections per year, the DNR at least one formal inspection.

The Township attorney commented that the different agencies inspect to enforce their rules. It has no relationship to the Township rules or ordinances. There is an inventory report as part of the licensing. Numbers fluctuate up and down. The DNR does not stand by that number. The Township cannot rely

on the inventory for actual number of animals kept. They only keep track of the animals that they are licensing. Is it commercial agriculture? Is taxidermy a fur product?

Supervisor Cory Behrendt asked if they are keeping animals for educational value. What type of business is it? Woods-Wolves-Wildlife. Terri Petter stated the address is out of Farmington. The Township attorney commented that exhibition wouldn't necessarily qualify it as an agricultural use. When you are talking about fur, you are talking about a product. Traditional fur farm definition is raising animals for a pelt. Raising animals to a certain age, then slaughter. The productive use presented is taxidermy, once they die from natural causes. Does what Ms. Petter is doing fall under non traditional definition for fur farming?

Terri Petter has not provided the Township with a list of animals on the property. Ms. Petter feel that the operation falls under commercial agriculture and that they do not need to provide the types of animals keep on the property. The Township attorney commented that even if the operation falls under commercial agriculture only those types of animals permitted under this category are allowed.

The Township believes the animals could be a liability risk. In the case of a natural disaster they feel that they should know what types of animals are present on the property. They are asking for an inventory of the types of animals keep and approximate numbers. The Township needs to enforce their ordinances. The Township is trying to find out if the use is valid.

Ms. Petter's attorney stated that they will provide the types of animals and approximate range of how many they can produce and to have the Township look toward the DNR count for the number. The Township asked that they provide an inventory of animals that are not regulated by the DNR. They also are asking for the end use of the animals. (taxidermy, pelts, etc)

Terri Petter commented putting aside the DNR count, she will make a list of what they have and the approximate ranges of what they can produce. The list will be provided before next months meeting.

Ms. Petter's attorney commented that they are operating as a commercial agricultural business. The Township needs information from Ms. Petter to determine if it is a commercial agricultural business.

Ray Kaufenberg asked that the Town Board ask them to keep an inventory of dangerous animals kept. If a dangerous animal escapes that the neighbors are alerted. Could the animals have some type of identification, in case of an escape? Terri Petter commented that an accident plan is on file with the USDA. Terri has a picture inventory. Tags are dangerous to the animal.

D. Krapu Dog Kennel

Jeff Otto presented the Town Board a summary of the key issues of the dog kennel CUP prior to the meeting. *See attached document "Krapu Kennel- Overview and Considerations 4/14/08.* The initial complaint was filed December 14, 2007, with a follow up on January 2, 2008. Supervisor Jeff Otto obtained a copy of the blueprints approved by the Building Inspector. The changes to the plan were presented to the building inspector. He reviewed these plans in July. The modified plans exceed the original wood frame building submitted.

Chair Jeff Otto opened the floor for public comment. He asked three times for public comment. Hearing none, the public comment period was closed.

Supervisor Jeff Otto read the Conclusions and Recommended Actions from the document submitted.

A motion by Supervisor Jeff Otto: That the report and all recommendation included within it be accepted. Motion seconded by Supervisor Cory Behrendt for discussion. There are some differences to what the CUP states. The Town Board is acknowledging that these are acceptable. We are not changing the CUP at this point.

Attorney Trevor Oliver commented that the part that needs to be changed, if that is the desire, should probably be issued through a CUP amendment. The document indicates that the Town Board will not take any more enforcement action based on the facts presented. Any CUP conditions that talk about ongoing business will be unchanged. (Dog walking, hours of operation, waste hauling, etc)

Vote was taken on the motion. Motion carried by unanimous vote. A copy of the document titled "Krapu Kennel- Overview and Considerations 4/14/08", the revised building plans and a copy of the septic installation and as-built record will be entered into the file.

Attorney Items

Hat Trick Property

The Township Attorney has not been able to make contact with Hat Trick property owners. Lakeville is interested in talking to Eureka Township about the annexation. The attorney will setup a meeting with two Town Board members and the City of Lakeville to discuss the annexation.

Buffington

Trevor Oliver has discussed this issue with Township Building Inspector Scott Qualle. He has been going down the path of obtaining a warrant to access the property to inspect the building. He received a letter from Mr. Buffington. His response will be that we need to enforce the code. If this doesn't work then we will proceed with a warrant. The building Inspector needs access to the property to inspect the building.

Interceptor 245th St reconstruction

Ray Kaufenberg expressed concerns of the reconstruction. He thought that the Met Council would be blacktopping 245th St. as part of the reconstruction. The Met Council would pay for the blacktopping. Now the Township is being told that they need to cost share in the project. He feels that the Met Council should be held accountable. Ray is also concerned about the safety of the project. He thinks the Township should have their own inspector to make sure the project is done correctly. Future use of the pipeline- He feels that a connection should be placed within the Township for future connection in the Township. (245th & Dodd Blvd)

Ed O'Brien commented on the blacktopping of 245th St. He was told by the council, when he was negotiating his easement that 245th St was going to be blacktopped. He doesn't feel the Township should pay for the blacktopping when it was part of the planned project.

Supervisor Dan Rogers commented that Bryce Pickart had commented that blacktopping shouldn't be a problem. He never actually said that it would be blacktopped.

Attorney Patrick Kelly commented that while working with the Met Council, now is the time to go into negotiation with them- when they are going down our right of way easement. (Disruption of traffic, citizens, start dates and finish dates.) There are funds available.

The clerk received a permit application in the mail today for the road right of way permit. The attorney asked that no permit be issued until he gives the go ahead.

Attorney Patrick Kelly will contact the Met Council to contact information and to start negotiations.

MN Pipeline Co.

The attorney presented a list of all the property owners involved in the lawsuit. The Township was asked to sign off on the lawsuit. The Township attorney feels that the Township should receive compensation for easements crossing the roads.

Friedges

Building Inspector Scott Qualle will be asked to contact Friedges for an onsite inspection of the property to determine the current use. Attorney Trevor Oliver will use this report to write a letter to Friedges on the use of the property.

E. CapX2020 Resolution

Resolution No. 67 Regarding Cap-X 2020 Application for a 345 k V Transmission Line Project with Associated System Connections was presented to the Town Board for consideration.

A motion by Supervisor Jeff Otto: To adopt Resolution No. 67 Regarding Cap-X 2020 Application for a 345 k V Transmission Line Project with Associated System Connections. Motion seconded by Supervisor Cory Behrendt. Motion carried by unanimous vote.

F. Jacobson Resolution- Housing right retention

A resolution granting extended housing right retention after teardown of an existing home was presented for approval. This would eliminate an attractive nuisance that could create other issues over the time period that the house is left vacant.

A motion by Supervisor Jeff Otto: To adopt Resolution No. 68 Granting extended housing right retention after teardown of an existing home. Motion seconded by Supervisor Carrie Jennings. Discussion followed. Supervisor Cory Behrendt expressed concerns with preserving a housing right. The resolution is open ended. Planning Commission Chair Mike Greco commented that there are other buildings on the property; will the other buildings be removed also? Secondary uses on a parcel are not allowed without a primary use. Ag buildings are allowed. This property is registered as a nonconforming use.

Supervisor Jeff Otto withdrew the motion. Supervisor Carrie Jennings accepted the withdrawal. This item was tabled until the May Town Board Meeting.

Other Business

A. Planning Commission Update

Community Growth Options from 1000 Friends of Minnesota- grant. They are asking for a 5 year commitment from the communities. They currently have funding for 2 years. The deadline for the application is May 15th. The Universities (CURA) part of the project is \$400,000. There will be students working on specific projects. There would be no cost to the Township. The money will be available this fall. A formal grant proposal needs to be submitted. Planning Commission Chair Mike Supervisor Carrie Jennings will contact Lisa Bigouette, 1000 Friends of Minnesota and work with Ken Olstad on writing the application for the grant.

A motion by Supervisor Cory Behrendt: To approve training for Nancy Sauber and the new Planning Commission member up to \$250.00 each. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote.

B. Response to First Park Lakeville AUAR

Supervisor Jeff Otto reviewed the draft AUAR plan and forwarded comments to Lakeville to meet the deadline. Copies of his comments were distributed to the Town Board. The Town Board did not have any additional comments or concerns. A motion by Supervisor Jeff Otto: To send a follow up letter based on the original comments that were drafted. Motion seconded by Supervisor Cory Behrendt. Motion carried by unanimous vote.

C. Newsletter

The newsletter was reviewed. Supervisor Jeff Otto submitted additional information on roads and misc. updates.

Old Business

B. Citizen complaint 235th St W

Table until May Town Board Meeting

E. Old Building Inspector

Based on last months recommendation, Supervisor Cory Behrendt will be working with Trevor Oliver on sending a letter.

F. Misc. Updates

Pederson Resolution- Table until May Town Board Meeting

Sound system Town Hall-

Supervisor Brian Budenski has obtained three quotes. Item will be discussed at the May Town Board Meeting.

New Business

A. County Road 23 realignment

The County is proposing turning County 23 into a 4 lane road. Most of the project is south of Eureka Township. One realignment proposal goes behind the Groves farm. Supervisor Jeff Otto will contact Dakota County for more information.

B. Dakota County CIP

The County has indicated that they are willing to do a safety audit of Dodd Blvd. Supervisor Jeff Otto will follow up on this item.

C. 235th St. & Dodd Blvd

The Township has received complaints that the cement barriers are close to the intersection and construction trucks are being parked along 235th and Dodd. It is creating a traffic hazard. Supervisor Brian Budenski will address this issue. Ripley’s have an open construction dumpster and litter is blowing around.

Clerk/ Treasurer Presentation

The resolution No. for CapX 2020 was corrected to Resolution No. 67. A bill was discovered from Dakota County Township Association for Onsite sewage treatment maintenance for \$1,443.42. The claim list for approval was updated to \$21,683.18. Total Disbursements for April is \$23,371.20. A motion by Supervisor Cory Behrendt: To adjust the Financials as stated by the clerk. Motion seconded by Supervisor Dan Rogers. Role call vote was taken on the motion. Supervisor Cory Behrendt- Aye,

Supervisor Jeff Otto- Aye, Supervisor Dan Rogers- Aye, Supervisor Brian Budenski- Aye, Supervisor Carrie Jennings- Aye. Motion carried by unanimous vote.

Road contracts need to go out in May. The Road Maintenance contract will stay at one year.

The Memorial Day picnic will not be held this year.

The Township is 150 years old this year. The Town Board briefly discussed if there should be a celebration or a write up in the paper. This item will be held open for continued discussion.

A motion by Supervisor Cory Behrendt: to adjourn. Motion seconded by Supervisor Dan Rogers.

Meeting adjourned at 12:09 pm.