

Eureka Township

Dakota County

State of Minnesota

Eureka Town Board Meeting
April 9, 2007

Call to Order

Vice Chair Jeff Otto called the regular monthly meeting of Eureka Township to order at 7:00 PM. Members present were Supervisors Jeff Otto, Cory Behrendt, Gloria Belzer, and Clerk/Treasurer Nanett Champlain, to record the minutes. Supervisor Brian Budenski arrived at 8:00 pm.

The meeting opened with the Pledge of Allegiance

Approval of Agenda

The following additions were made to the agenda:

Old Business: I. Joe Miller

New Business: J. Roads

A motion by Supervisor Gloria Belzer: To approve the agenda of April 9th as amended. Motion seconded by Supervisor Cory Behrendt. Motion carried by unanimous vote.

Progressive Rail

Representatives from Progressive Rail presented a short informational presentation on the railroad. They informed the Town Board that Northern Natural Gas Pipeline will move the pipe for the gas line by rail. Progressive Rail is leasing property on Highview Ave., south of 225th St., adjacent to property already being leased by Northern Natural Gas. This property will be used as a docking station. Pipes will be unloaded from the train and taken by truck to the site. Use of this site has been approved on the Federal level.

Audience Comment Period

Franco Fiorillo, Airlake Resource Center asked the Town Board about the development of the south end of the airport. He is interested in working with the Township on developing a plan for airport property located within Eureka Township.

Andrea Krapu commented that she was once again placed on the agenda without being notified. Ms. Krapu asked that her item be discussed at this time.

The clerk had received a letter notifying the Town Board that a sign had been placed on the Krapu property advertising "Vermillion Kennels" and that no sign permit had been obtained.

Ms. Krapu stated that it is a rock, a movable rock, a non permanent structure, it doesn't constitute a sign. Ms. Krapu felt that she does not need a permit because it is in her CUP.

Supervisor Gloria Belzer stated that it is a sign advertising a business "Vermillion Kennels"

The Town Board reviewed the CUP issued to Ms. Krapu. There is no mention of a sign in the CUP issued for the Dog Kennel. The CUP does state that "the permit holder will comply with Township ordinances"

The Town Board will discuss this issue later in the meeting as scheduled in the agenda.

Minutes

The following changes were made to the March 12, 2007 Town Board Meeting Minutes: Page 6- Country Joe- add: "3rd" Ag Building.

A motion by Supervisor Cory Behrendt: To approve the March 12, 2007 minutes as amended. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

A motion by Supervisor Cory Behrendt: To table the approval of the March 15, 2007 minutes until next meeting when a quorum of officers are present from the meeting. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote.

A motion by Supervisor Cory Behrendt: To approve the March 27, 2007 Reorganizational Meeting minutes as presented. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote.

Treasurer Report

The clerk/ treasurer reported a checking account balance of \$896.98. Savings account balance \$103,864.28. CD Balances totaling \$149,009.52. Total account balances of \$253,770.78.

A motion by Supervisor Cory Behrendt: To approve the Treasurer report of April 9, 2007 as presented. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

Bills and Receipts

Clerk/Treasurer Nanett Champlain presented the following bills for payment:

Besure Inspections	Inspection Services thru 3/31/07	\$5,515.82
Otte Excavating	Road Maintenance- March 2007	\$9,842.00
Dakota Electric	Electric Town Hall	\$89.04
Frontier Communications	Phone Service	\$113.74
Culligan	Water softener rent	\$23.38
Dick's Sanitation	December	\$35.14
Severson, Sheldon	Legal Services thru 2/28/07	\$1,167.13
Kennedy and Graven	Legal Services thru 2/28/07	\$942.19
ECM Publications	PC Ad	\$47.50
Dakota County Treasurer	Salt and Sand	\$288.00
Jeff Otto	reimbursement	\$246.36
Brian Budenski	reimbursement	\$10.00
Nanett Champlain	Expenses thru 3/31/07	\$144.48
Cheryl Schindeldecker	Election judge	\$50.00
Earl Schindeldecker	Election judge	\$100.00
Marlene Swantek	Election judge	\$130.00
Carolyn Papke	Election judge	\$130.00
Jody Armon Jones	Election judge	\$130.00
IRS	941 Deposit April 2007	\$641.73
PERA	Payroll period 3/1/07 to 3/31/07	\$305.11

Minnesota Dept of Labor	1st Qtr 2006 State Surcharge	\$431.15
Sharon Buckley	reimbursement	\$125.00
Nanett Champlain	Payroll period 3/1/07 to 3/31/07	\$1,841.79
Total Bills presented		\$22,349.56

The following receipts were deposited in March:

- **Local Permits**

Merlin Schonning- <i>Ag. Permit 000997</i>	\$25.00	Jeff Tonsager- <i>Permit- 07-02-007</i>	\$25.00
Cutting Edge Builders- <i>Permit 07-02-009</i>	\$306.86		

- **Other Permits**

Windmill LLC- <i>appl. Mining permit</i>	\$300.00
Windmill LLC- <i>Escrow Mining permit</i>	\$7,500.00

Other Receipts

Gary Smith- <i>History Fund</i>	\$50.00	Castle Rock Bank- <i>Interest CD</i>	\$247.93
Dakota County- <i>Aggregate tax</i>	\$5,484.25	Castle Rock Bank- <i>Interest Savings</i>	\$1,339.75
Central Valley- <i>Equity payment</i>	\$2.90	Castle Rock Bank- <i>Interest CD</i>	\$349.84
RASP Signs – <i>5 signs</i>	\$71.75	BeSure Inspections- <i>return overpayment</i>	\$299.06

TOTAL RECEIPTS DEPOSITED IN MARCH 2007 **\$16,002.34**

A motion by Supervisor Gloria Belzer: To approve bills and receipts. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote.

Budget

The Town Board reviewed the budget.

Road Contractor Time

A list of road projects for 2007 was given to the road contractor. He was asked to compute tonnages for the projects. These projects will be reviewed at the road inspection. Projects include 225th St W and the Chub Lake road project.

Planning Commission

Jerry Swedin- building permit request

Jerry Swedin, 27775 Iberia Ave. requested to build a new home on his property located at 27561 Iberia Ave. (Property ID#130320001050) The requested home is a 4,000 sq.ft. rambler with a finished basement, deck and attached garage. A driveway will not be installed at this time.

A motion by Supervisor Cory Behrendt: To approve the permit request as presented for approval as recommended by the Planning Commission. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote. **Building permit #07-04-013 was issued for \$5,965.69**

Mike Kukla- Pole building and Driveway

Mike Kukla, 24648 Iberia Ave. Lakeville requested a permit to build a 36' x 42' pole building and to install a driveway.

The Planning Commission had questioned the placement of the driveway in relationship to the intersection. The Town Board reviewed Ordinance 3, Chapter 3, Section 3. The intersection in question consists of two Township roads. The ordinance is addressing the intersection of a Township and a county road.

A motion by Supervisor Cory Behrendt: To approve the pole building and driveway permit as presented. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

Engineering Firm- Mining Application

The Planning Commission sent out proposals for engineering consultant services. The following firms responded to the request: Howard R. Green, Bolton and Menke Inc., MFRA, Olsson and TKDA. Howard R. Green and Bolton and Menke chose not to submit proposals. The Town Board reviewed the proposals from the three engineering firms.

A motion by Supervisor Cory Behrendt: To retain TKDA for the engagement of the Miller Mine permit and to accept the proposal (*dated April 4, 2007*) that has been presented to the Town Board. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

A motion by Supervisor Cory Behrendt: Supervisor Cory Behrendt will sign the letter of engagement with TKDA and work with introductions of Mr. Miller and get the discussion under way. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

Comp Plan Amendment

A motion by Supervisor Cory Behrendt: To deny the Comprehensive plan amendment that was scheduled for a Public Hearing on March 5, 2007 relating to the SW1/4 of Section 8, Township 113, Range 20 for the following two reasons that were given by the Planning commission: in essences it would constitute spot zoning and disrupt the strategic envisioning process. Motion seconded by Supervisor Gloria Belzer.

This is also in view in the fact that there is an alternative method to accomplish this on behalf of the Ripley's and others that might be in a similar situation. Motion carried by unanimous vote.

Ordinance Amendment

A motion by Supervisor Cory Behrendt: To approve the creation and approval of a resolution capturing the purposed language changes: Including the Definition of a "Lot of Record", Ordinance 3-Chapter 3: Buildable Lots, Section 1- Density F. and Section 2- Platting of Land, Clustering and Lot/ Parcel Splits A. & B. that has gone thru public hearing on March 21, 2007. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

Appointment of Planning Commission Members

Bill Kuhns submitted a letter of interest, but was unable to attend tonight's meeting. Merlin Leine submitted a letter of interest, but was not present at the meeting for an interview. The Town Board interviewed the two applicants that were present: Kenny Miller and Ken Olstad. Each applicant was asked to answer a set of questions.

The Town Board reviewed the letters of interest of the two applicants that were not present.

A motion by Supervisor Cory Behrendt: To appoint Ken Olstad to the open 1 year term on the Planning Commission. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

A motion by Supervisor Cory Behrendt: To appoint Kenny Miller to the open 3 year term to the Planning Commission. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

Building Inspector

The Town Board discussed the ordinance codes being adopted by the State of Minnesota the end of May.

Spirit Ranch 1 AND Spirit Ranch II – CUP Review

Terri Petter was unable to attend the meeting; her attorney, Jerrie Hayes was present representing Ms. Petter.

Vice Chair Jeff Otto opened the floor for public comment, hearing none the floor was closed to public comment.

Ms. Petter's attorney stated that there have been no new developments that she is keeping the same number of animals as far as she knows. Ms. Petter has not received any notice of complaints as far as the operation. There was an issue of some type of nuisance complaint, but that was resolved and a letter sent to the Board. The operation is running its normal course, nothing changed, and nothing new.

The review fees were not paid, since Ms. Petter was unable to attend tonight's meeting. The clerk asked that Ms. Petter submit the review fee of \$15 for each CUP and the kennel license fee of \$100 to the clerk.

Mark Nelson- Airstrip CUP Review

Mark Nelson- 5255 265th St. W. Farmington appeared before the Town Board for review of his Conditional Use Permit for an airstrip located on his property. Vice Chair Jeff Otto opened the floor for public comment. There were no public comments. Chair Cory Behrendt closed the floor for public comment.

The \$15.00 review fee was paid to the Clerk.

Planning Commission Update- Chair Mike Greco

The Planning Commission asked that the Planning Commission meet with the Building Inspector to review procedures and for clarification of what requires a permit.

Planning Commission asked for pre-approval of the 2 new Planning Commission members to attend government training sessions. The cost is \$125.00 per session.

The Engineer request for qualifications was sent to 14 or 15 services.

Planner, Bill Weber has requested to amend his contract with the Township based on unanticipated need for additional work meetings. The Town Board received a copy of this request in their packet. Supervisor Cory Behrendt, Planning Commission members Mike Greco and Sharon Buckley met with Bill Weber in March to discuss the progress to date and the options with moving forward. At that

meeting it was proposed to schedule a joint meeting with the Town Board, Planning Commission and the CAC to assess where things were at in the process.

The Planning Commission adopted a policies and procedures manual at their meeting last month.

The Planning Commission asked for Ordinance clarifications on right of way of Township roads and changing a driveway approach to an existing driveway, if it is acceptable. A citizen came before the Planning Commission with a permit that is 4 years old asking for renewal. What is ½ the fee?

Follow-up items: Cluster and lot split agreement- update. Applicants signing an acknowledgement form for a representative, is this legal?

Planning Commission proposed ordinance updates several months ago, what is the status?

Town Board response to the Planning Commission update was tabled till later in the meeting.

Old Business

A. Sauber Family Mine

Kenny Miller, Eureka Sand and Gravel informed the Town Board that the reclamation plans have been finalized with Barton Sand and Gravel. This revised plan has been forwarded to the Sauber Family Trust for approval. A letter will be submitted to the Township by Barton Sand and Gravel, accepting the plan. The water will be redirected to Barton Sand and Gravel property.

B. Storlie Pit- dewatering

The Town Board received information from Mr. Storlie in regards to the dewatering. *See attached*
The Planning Commission is recommendation:

1. As recommended by the Township attorney- Engineer reviews the ordinance language.
2. The discharge water is piped to a discharge point.
3. On going monitoring of ground water and wells surrounding the mine.

Mr. Storlie was asked if he was willing to pay reasonable costs for Township attorney and engineer to review the ordinance language, so it is not a cost to the taxpayers. Mr. Storlie stated he is willing to work with the Township on costs.

A motion by Supervisor Cory Behrendt: To proceed with engaging the services of TDKA to formulate an ordinance proposal, including a provision for dewatering based on the proposed language presented and Planning Commission recommendations to be included into our existing Ordinances. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

The Town Board will request that billing by TDKA be broken down for the two separate mining issues. Supervisor Cory Behrendt will obtain from TDKA a proposal for estimated cost of the dewatering ordinance changes prior to engaging TDKA.

C. Butch Hansen VS Eureka Township

Supervisor Cory Behrendt will request an update from Attorney, Bill Alsop

D. MinnCan Update

No further updates on the process at this time.

E. Cross Sign

The Clerk had a discussion with Don Cross. He is planning on moving the sign out of the road right of way. He was told that he needs to come before the Planning Commission with an application for placement of the sign.

F. Town Hall Use

Bernadette Wood, a citizen of the Township sent the Town Board a letter of interest, she is willing to draft a facilities use policy for the Town hall.

A motion by Supervisor Cory Behrendt: That Supervisor Gloria Belzer works with Bernadette Wood and other resources to bring forth a rental policy as well as procedure and any forms required for liability. Motion seconded by Supervisor Brian Budenski.

The motion was amended: To include a citizen, Ray Swedeen, a Planning Commission member, Supervisor Gloria Belzer and Bernadette Wood. Supervisor Cory Behrendt and Supervisor Brian Budenski accepted the amendment. The amended motion carried.

A motion by Supervisor Cory Behrendt: To bring to the table the Krapu sign permit. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

Krapu Sign Permit

The Town Board did not feel that the ordinances were followed in placing of the sign. A sign permit needs to be obtained. The sign is a zoning issue, not part of the CUP issued.

Attorney Jerry Hayes represented the Krapu's on this issue. The Krapu's do not believe that the carved stone constitutes an advertising sign under the ordinance. They feel it is a place marker, a geographic or landscape placed stone. It does not meet the ordinance definition as a sign. If the Town Board feels that the rock does qualify as a sign, that it does not meet the description of the sign presented in the site plan. As far as the CUP plan for a sign, they have no issue in going through the proper channels for the billboard style advertising sign talked about in the site plan. As far as the CUP there is nothing specific in granting of the sign without the permitting process.

The Town Board discussed with Ms. Hayes the process of addressing citizen complaints. An item initiated by a citizen is placed on the Town Board agenda for discussion before informing the citizen, so the Town Board has the opportunity to discuss whether it is a legitimate complaint before involving the accused. Just because an item is on the agenda does not mean there will necessarily be action on that item.

Attorney Jerry Hayes stated that she felt Mrs. Krapu's reaction to being placed on the agenda without notification was that she thought action was going to be taken tonight vs. be placed on the agenda for discussion on the issue. The Krapu's are not baulking at meeting the ordinance requirements and application process.

Supervisor Gloria Belzer commented that the sign in question is a large rock, with "Vermillion Kennels" etched into the rock, placed on top of other rocks. Vermillion Kennels is a dog kennel business the sign is advertising the business.

Attorney Jerry Hayes stated that there is no solicitation on the sign, address, hours of operation, phone number. It is marking the location of the kennels, a place marker.

A motion by Supervisor Cory Behrendt: To direct the attorney contact to contact the Township attorney to determine whether the rock constitutes a sign requiring a permit. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

A motion by Supervisor Cory Behrendt: To move the newsletter to the floor. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote.

Newsletter

Editor, Carolyn Papke had presented a draft of the newsletter to the Town Board prior to the meeting. The Town Board reviewed and discussed the content of the newsletter. Additions and correction were made as needed.

Vermillion River Watershed

Hampton, Douglas and Castle Rock Townships are going to go together and share some of their hours with Barr Engineering regarding the plan. They are meeting April 19th at 5:00 pm. If the Township chooses to meet with the other townships- ½ hour will be deducted from each Township 10 hour allotted time with Barr Engineering.

A motion by Supervisor Cory Behrendt: To approve spending ½ hour of the townships allotted time with the joint meeting on the 19th of April at 5:00 pm in Hampton to be published as a quorum. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote.

Cleaning person Town Hall

3 persons showed interest in the cleaning position at the Town hall. Sue Rogers offered to do the monthly cleaning free of charge. Once the Town hall is being rented to the public, the position will be reevaluated.

A motion by Supervisor Cory Behrendt: To appoint Mrs. Rogers to do the cleaning. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

The clerk was asked to notify the other applicants that this is a short term appointment, until after the Town hall use policy is adopted. At this time the Town hall will need additional cleaning. Their names will be kept and they will be contacted.

Planner/ Consultant

The Town Board discussed the joint meeting. It was decided that Bill Weber, planner consultant would not be present at this meeting.

The Town Board discussed the planners' proposal for additional funding. *See attached document-dated April 5, 2007.* The following motion was made in regards to Planner Bill Weber's proposal to revise his contract:

A motion by Supervisor Cory Behrendt: To proceed under response 1 to complete the process under our current budget and provided by the CAC to will hold a Town forum as indicated by the plan submitted by Bill Weber. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

A Joint meeting was scheduled with the Planning Commission, Town Board and CAC on April 24th at 7:00 pm.

I. Joe Miller

The response letter sent by Country Joe Miller's attorney on March 9, 2007 to the Township attorney was admitted into the minutes. *See attached*

A motion by Supervisor Gloria Belzer: The Town Board will send a letter to Mr. Miller's attorney acknowledging the receipt of the letter clarifying the 3rd building will remain as Ag. use and that we understand that Mr. Miller will modify the Country Joe Miller racing brochure to reflect the ag use compliance of the 3rd building. Motion seconded by Supervisor Cory Behrendt. Motion carried by unanimous vote.

J. Friedges Property Citizen Complaint

The complainant addressed four issues: Permit agreements- 1. November 14, 2005 Town Board Meeting: Permit for 120' x 180' pole shed- "The processing of soil will be moved inside" "Increase the size of the burm on west side and place trees and landscape around the building." "All equipment located on the site will be moved inside, leaving the area visibly neater." Pictures were presented. There is quite a bit outside the building, including storage boxes, equipment, an elevator, a pile of dirt, etc. The soil processing has not been moved inside. There is a burm on the far west side of the building, but it is not on the same parcel as the building and is not owned by the same people. There are no trees of landscaping. The equipment has not been moved inside. There is additional noise of trucks backing up and dumping materials. 2. Driveway permit- to address safety issues and backing up of trucks. This driveway has not been installed. 3. Use of 225th St W.- maintenance and dust issues. They stated that they will not use 225th St. Friedges is constantly using this road for truck traffic. 4. Piles of junk and equipment located on the property. There is outside storage of product outside.

A letter received from Mr. Friedges attorney, Gerald Duffy on January 11, 2007 was read, *see attached*.

The complainant emphasized that the noise level has increased drastically, truck traffic and increase of outdoor storage of equipment and materials.

A motion by Supervisor Cory Behrendt: that Supervisor Gloria Belzer will follow-up on the process for changing road tonnage on a Township road. Supervisor Dan Rogers will contact Jim Sheldon to arrange an onsite review of the Friedges property with Supervisor Brian Budenski. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

The November 14, 2005 Town Board minutes and a copy of the pictures will be sent to the attorney to find out if any of this can be enforced.

AirLake Airport

A motion by Supervisor Cory Behrendt: To approve Supervisor Jeff Otto and Supervisor Dan Rogers to work with the Aircraft Resources to begin discussion on the building and requirements that they would like to see for hangars on the south side. Motion seconded by Supervisor Jeff Otto.

Attorney Engagement policy and Township attorney

A motion by Supervisor Cory Behrendt: To table Attorney Engagement policy and Township attorney until next month. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

Township Recycling Day

A motion by Supervisor Gloria Belzer: To table until next month. Motion seconded by Supervisor Cory Behrendt. Motion carried by unanimous vote.

Mowing of Town Hall

This will be posted in the newsletter.

Annual Meeting Items

The flag lighting will be installed this week. This project is being funded by Gene Dietz. Gary Smith is assisting with the project. The clerk will ask Gary Smith to submit a report on the project.

Annual meeting items will be tabled.

State Auditors Report- *follow up from reorganizational meeting*

The clerk reported that she had contacted the State Auditors Office about the Township audit. They are allowing an extension for reporting until June 30, 2007. The auditing firm felt that they would have the audit complete by that date.

Municipal Construction Report

The report is due June 30, 2007. It has not been completed at this time.

Clerk/ Treasurer Presentation

LGA letter and CIP letter

These letters were distributed to Town Board members for informational purposes.

Roads

The Road Supervisors will work with the road contractor for estimates on Road projects. Bids requests need to be put out as soon as the estimates are prepared. The road supervisors should work with the clerk on the bidding process.

Board response to Planning Commission Requests

Planning Commission/ Town Board roundtable meeting will be scheduled in May, after the new Planning Commission members are present.

A motion by Supervisor Cory Behrendt: To approve training for the new Planning Commission members up to \$125.00 such as Government training Services. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

A motion by Supervisor Cory Behrendt: To adjourn. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

Meeting adjourned at 11:55 pm