

Eureka Township
Dakota County
State of Minnesota

Eureka Town Board Meeting
May 10, 2010

Call to Order

Chair Brian Budenski called the May 10, 2010, Eureka Town Board meeting to order at 7:02 p.m. Members present were Supervisors Nancy Sauber, Brian Budenski, Kenny Miller and Dan Rogers. Clerk/Treasurer Nanett Sandstrom was present to record the minutes. Supervisor Carrie Jennings arrived at 7:04 p.m. 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:

Proposed Time Trials/Bike Race was moved up to B. under Other Business- Land Use & Zoning

New Business: A. DNR Permit Lift Station

B. Ordinance

Old Business: 15. Frisbee Golf- Castle Rock

16. Kelly Aggregate Fence- others?

17. Kelly Aggregate Berm complaint follow-up

18. Denmark Maintenance

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

Past Town Board Member Jeff Otto was presented with a plaque of appreciation to recognize his 3-year term as a Township Officer.

Public Comment Period

No public comments were made.

Treasurer's Report

Checking Account Balance: \$2,981.91. Outstanding Checks \$2,181.85. Savings Account Balance: \$150,222.31. CD Account Balances: \$142,708.16. Ledger Balance as of April 30, 2010, is \$293,730.53.

A motion by Supervisor Nancy Sauber: To accept the Treasurer's Report of May 10, 2010. The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote.

The Town Board reviewed the Claims List and Net Pay Account Distribution.

Bills and Receipts

The Clerk presented the following bills for payment:

Otte Excavating	Road maintenance thru 4/30/2010	\$11,945.00
MNSPECT	Inspection Services April 2010	\$324.93
Dakota Electric Association	Town Hall	\$73.22
Frontier Communications	Phone Service Town Hall	\$128.79
Culligan	Water Softener Town Hall	\$23.51
Dick's Sanitation	Garbage Service Town Hall	\$40.24
Kelly & Lemmons	Legal Services thru 4/30/2010	\$2,928.75
PERA	Payroll Period 4/1/2010 to 4/30/2010	\$310.29
Nanett Sandstrom	Expenses 4/1/2010 to 4/30/2010	\$102.85
Pro Service Lawn	Mowing- Town Hall	\$288.56
T & C Commercial Cleaning	Clean Town Hall – April	\$42.75
Lakeville Trophy Co.	Appreciation plaque	\$25.72
Carol Kelly	PC Recorder- 4/1/2010 to 4/30/2010	\$205.47
Nanett Sandstrom	Clerk Payroll 4/1/2010 to 4/30/2010	\$1,854.81
ECM	Legal Ads	\$131.00
Dakota County Treasurer	Election equipment maintenance	\$300.00
IRS	Deposit 941 May 2010	\$519.10
Ken Olstad	Training	<u>\$60.00</u>
Total Bills Presented		\$19,304.99

A motion by Supervisor Nancy Sauber: To approve the Claims List for Approval and Net Pay Account Distribution. The motion was seconded by Supervisor Dan Rogers. Roll call vote was taken on the motion: Kenny Miller- aye; Carrie Jennings- aye; Brian Budenski- aye; Nancy Sauber- aye; and Dan Rogers- aye. The motion carried by unanimous vote.

The Town Board reviewed the following financial reports prepared by the Clerk: Current Investments, Statement of Receipts and Balances, Cash Control Statement, Disbursements Register, and Receipts Register. It was noted that check #5873 is a Voided Check.

The following receipts were deposited in April of 2010:

• **Local Permits**

Dakota Electric- Utility permit 2010-04-2	\$25.00	Terri Petter- CUP Reviews, Kennel License	\$130.00
Rice Lake Construction- Permit 09-48	\$9,467.43	Cheryl Minke- application Fee	\$25.00
Mark Nelson- Airstrip Review	\$15.00		

• **Other Receipts**

South Cedar Greenhouse- Newsletter AD	\$35.00	Castle Rock Bank- Interest CD	\$650.48
Castle Rock Bank- Interest CD	\$197.70		

TOTAL RECEIPTS AS OF APRIL 30, 2010 **\$10,545.61**

On the Disbursements register transaction IAD55 is not listed. These transaction numbers are automatically inserted by the CTAS program when deposits are made into Savings. It is unknown why the transaction is not listed.

A motion by Supervisor Kenny Miller: To accept the balance of the financial statements as presented. The motion was seconded by Supervisor Nancy Sauber. The motion carried by unanimous vote.

Budget

The Town Board reviewed the budget.

Contractor Time

Bryce and Jason Otte, Road Contractors, were present to address road issues. The Township spent almost \$500 in April picking up trash in Township ditches. Highview Ave from 225th St. north to the Township line needs extra grading; it is being used heavily.

The Road Contractors were advised that they cannot contract with property owners to grade private driveways.

The Town Board Road Review Report was briefly discussed. The Road Contractors were asked to complete signage issues and spot graveling, as well as address garbage.

Dust Control application was discussed. Spot graveling will take place before dust control is applied.

Planning Commission, Land Use Permits and Related Items

A. Land Use & Zoning Issues

1. Ag Preserve Request- LaVonne Propp

LaVonne Propp submitted an application to place her property into Ag Preserve. It is currently enrolled in the Green Acres program.

A motion by Supervisor Brian Budenski: To approve the Restrictive Covenant that allows Lavonne C. Propp to place the property of 71.2 acres out of Green Acres into Ag Preserve. The motion was seconded by Supervisor Carrie Jennings. A friendly amendment was offered by Supervisor Nancy Sauber: To include the Property ID# 13-01700-010-76. Supervisor Carrie Jennings accepted the amendment. The motion carried by unanimous vote.

B. Other Business

Proposed Bike Race/Time Trails in Eureka Township

Steve Knowlton, Rob Legler and Ted Siefkes representing Silver Cycling were present to talk to the Town Board about holding bicycling time trials in Eureka Township. (250th St and Highview Ave) They would like to use the Town Hall parking lot for parking and registration. They presented the Town Board with a copy of their insurance coverage. They have contacted the County in regard to using County roads. They have also spoken with the Sheriff's Department.

Sheriff Deputy

A Deputy Sheriff stopped to address any Township issues. Garbage in Township ditches was mentioned. It is a big problem in all their patrol areas.

Citizen Complaint

A citizen complaint was received on 24315 Dodd Blvd. that a boat repair business is operating out of an Ag use building. Building Inspector Scott Qualle will be asked to inspect the building for use of the building. The Clerk was asked to email the complaint to the Building Inspector.

Other Business

A. Gravel Bids

Supervisor Kenny Miller recused himself from his position on the Town Board for discussion on gravel bid acceptance.

One bid for Class 5 Gravel was received. Eureka Sand and Gravel submitted a bid for Class 5 Gravel of \$6.50/ ton delivered. Last year's accepted bid was \$6.05/ ton delivered.

A motion by Supervisor Dan Rogers: To approve the gravel bid of \$6.50/ton delivered from Eureka Sand & Gravel. The motion was seconded by Supervisor Nancy Sauber. The motion carried by unanimous vote.

The Clerk was asked to run the Legal Ad again for limestone. Bids will be opened at the June 14, 2010, Town Board Meeting.

C. Text Amendment Mining Ordinance- Jill Trescott

Jill Trescott, a Planning Commission member from Sciota Township, was present at the Board's request. Sciota Township adopted a new mining ordinance about 3 years ago. She left a copy of their ordinance for reference. This is the first year that an asphalt plant permit has been issued in that township. It is a temporary asphalt plant.

The Town Board took a brief recess.

D. Mark Zabel & Commissioner Joe Harris- Vermillion River Watershed Joint Powers Organization

Mark Zabel, VRWJPO, Commissioner Joe Harris and past Town Board Member Jeff Otto, delegate of the Town Board to work on VRWJPO issues, were present to discuss VRWJPO issues with the Town Board. The Town Board and VRWJPO are trying to find a practical way to split the permitting under the VRWJPO Ordinance that the Town Board decided not to adopt. The proposed amendment is helpful but doesn't solve all the problems. *See attached language.* Mark Zabel explained that the proposed amendment is an exemption to allow existing building eligibilities under the one per qtr/qtr to go ahead and provide a lot split to exercise that building eligibility. Under that provision, the buffer would not come into play. A public hearing is scheduled at 1:00 p.m. May 27th at the Western Service Center.

The Town Board asked if the provision works under clustering. Mark Zabel was not sure if it works with clustering. It would only apply with the one split of the 40 acres.

Mark Zabel was looking for an answer as to whether the Township was interested in adopting the ordinance and enforcing the ordinance on its own or entering a Joint Powers Agreement with the JPO to do it. If not, the JPO needs to take a proactive stance and actively take back permitting. Eureka Township is the only township in the County not to adopt the Ordinance.

The Town Board still has concerns with adopting the Ordinance as it is written. The Township allows clustering. The proposed amendment does not address clustering. Splits could be created, even though they may not be developed. Currently, the Township does not have a subdivision Ordinance. The Town Board will wait until the JPO Ordinance is rewritten to see how it is worded before deciding to adopt the Ordinance.

B. Ditch mowing Quotes

Ditch mowing quotes were received from Dale Kuchinka, River Oaks and Anderson Bobcat. Dale Kuchinka was not present. Todd Headman from River Oaks was present, but left shortly before 10 pm, before the quotes were discussed. Dave Anderson of Anderson Bobcat Services was present. He was asked to come forward to discuss the quote with the Board. Dale Kuchinka's quote was \$33/mile. River Oaks' quote was \$28.00/mile and Anderson Bobcat at \$29.75/ mile. All three companies use a rotary disk mower.

A motion by Supervisor Brian Budenski: To accept Dave Anderson's quote for mowing Township ditches this year, twice. The motion was seconded by Supervisor Dan Rogers. Vote was taken on the motion. 4 Supervisors voted in favor of the motion, 1 Supervisor voted nay. Supervisor Nancy Sauber stated for the record that she voted "nay" because she saw nothing in the quote from River Oaks that would cause her to reject it, and it was the lowest quote. The motion carried. The Road Supervisors will provide Dave Anderson with a map of the Township and mowing times. He was asked to provide the Township with a Certificate of Insurance.

F. Planning Commission Update

Planning Commission Ken Olstad was present to address the Board.

Comprehensive Plan Update- Only part left is the septic piece. They are continuing to work on completing this.

Ordinance Update- The draft is available for review the public hearing is scheduled for May 17th.

Commercial/Industrial Task Force- They are continuing on looking for applicants.

Lightly-framed structures- Pete Storlie and Vince Mako are continuing to work on this.

Joint Meeting with Town Board- The Planning Commission would like to set up a Joint Meeting with the Town Board. A meeting will be scheduled after the June Town Board Meeting.

Old Business

A. 1. Hawkins

Patrick Hawkins was present to give the Town Board an update on the progress of his permit. He stated that he has capped off the septic. The building is going to be used for personal storage. It was stated that Mr. Hawkins needs to work with the Building Official as agreed and that the Building Official will give the Town Board a report when the required items are accomplished.

The building must have a proper foundation. It must be attached to the ground.

A motion by Supervisor Nancy Sauber: To affirm that the motion regarding the Patrick and Lisa Hawkins move-in and building permit fees issue that was made at the Board Meeting on April 15, 2010, was based on Mr. Hawkins' statements about what he had already paid to the Township and the ensuing Board discussion. Mr. Hawkins stated that he had paid a doubled move-in permit fee of \$150. That is a base move-in permit fee of \$150 and a penalty of \$150. Township records show a payment of \$50 (presumably the reduced move-in permit fee) and two \$25 application fees. I further move that Mr. Hawkins provide proof of his \$150 penalty payment, and then and only then, will that payment be credited against the \$250 penalty the Board has agreed applies.

Mr. Hawkins also owes \$250 for the permit fee and owes the State Surcharge. The motion was seconded by Supervisor Brian Budenski. The motion carried by unanimous vote.

A motion by Supervisor Nancy Sauber: To attach the following to the May 10, 2010, Town Board minutes as documenting the history of Planning Commission and Board discussion and action on the Hawkins matter:

- Page 6 of the 7-9-2007 Town Board meeting
- Page 6 of the 8-13-2007 Town Board meeting
- Pages 8 & 9 of the 9-10-2007 Town Board Meeting
- Pages 1 & 2 of the 10-1-2007 Planning Commission Meeting and
- Pages 3 & 4 of the 10-9-2007 Town Board Meeting.

These minutes track this matter from the time of the complaint filed against the property through the Board approval of the move-in permit and the building permit and its doubling of the building permit fee. The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote.

A short recess was taken by the Town Board.

Other Business- continued

E. Lot Split Approval

Currently, the Township does not have the authority to approve lot splits, as the necessary, former subdivision ordinance language was repealed in the past, probably unintentionally, through an amendment of the Ordinances. The Town Board needs to adopt a Subdivision Ordinance in order to reinstate this authority. Reasons for the desirability of lot split approval were discussed. Attorney Trevor Oliver was asked to draft Ordinance language. A public hearing was scheduled for June 7, 2010, at 7:00 p.m., before the Regular Planning Commission Meeting.

G. Plan Review Fee Pre-payment Schedule Memo

In the interests of time, this matter was deferred to another meeting.

H. Septic Report

The Town Board reviewed the non-pump septic records from Dakota County. Residents on this list have been sent three notices by the County and have not provided the County with pumping records. The accuracy of the list was discussed. Supervisor Carrie Jennings will draft letters to persons on the non-pump list, informing them that they are on the list and asking them to provide pump records. The Clerk will send out the letters

Old Business

A. 14. Country Stone update

The tentative agreement with Country Stone is in its final stages. It will be sent to the Township attorney for review before scheduling a Special Closed Town Board meeting for Board discussion and possible approval.

A few concerns were brought up by citizens at the meeting. The question was asked, and it was answered that, at the time of the lot split, one property only was designated as the location of any non-conforming use. The Country Stone use is only on PID# 13-00500-010-05. The property to the west owned by John Friedges, PID# 13-00500-019-01, is not part of any non-conforming use.

By Township Ordinance, the driveway on the north side of the property should have a setback of ten feet from the property line.

Other Business- continued

I. NCRWMO

NCRWMO met in April. Information was forwarded to the Town Board on the meeting. The NCRWMO is receiving money (\$150,000) to acquire land or easements, or to pay farmers to set-aside land.

J. Training Reports

Supervisor Nancy Sauber had handouts that she will put in the Town Board's file folders.

Minutes Approval

A. Eureka Town Board Meeting Minutes April 15, 2010

A motion by Supervisor Nancy Sauber: To approve the Town Board Minutes of April 15, 2010. The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote.

B. Local Board of Appeals and Equalization April 26, 2010

A motion by Supervisor Nancy Sauber: To approve the Board of Appeals and Equalization Meeting minutes of Tuesday, April 26, 2010. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote

C. Special Joint Meeting of March 30, 2010- Cemstone Concrete Plant Tour

The following spelling correction was made to the Special Joint Meeting of March, 30, 2010: "Redi-mix" was changed to "Ready-mix". A motion by Supervisor Nancy Sauber: To approve the amended Cemstone Concrete Plant Tour Minutes of March 30, 2010, as amended. The motion was seconded by Supervisor Dan Rogers. Supervisor Carrie Jennings and Supervisor Dan Rogers were not present at the meeting and refrained from voting on the motion. The motion carried by unanimous vote of Supervisors voting.

D. Town Board Road Review April 17, 2010

The following corrections were made to the Town Board Road Review Minutes: Page 1, paragraph 3 -"Several general decisions were made" was removed and replaced with "A number of actions were discussed." Page 2, under 240th St.- after, "Remove", add: "Trim trees". Northwest does not need to be capitalized. A motion by Supervisor Nancy Sauber: To approve the minutes of the April 17, 2010, Road Review as amended. The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote.

Old Business- continued

A. Misc. Updates

2. Windmill Mine- next step

Supervisor Nancy Sauber is in the process of listening to the Windmill public hearing tape. She was listening for references to dust control, berms, trees and paving. The tape is being used for supporting reference to what was presented in the site plan at the public hearing. Nancy will type up her findings from the tape and forward them to Kenny for his review and comments.

Eureka Sand and Gravel's IUP, Condition 8, requires less-intrusive backup alarms when available. Are there less-intrusive backup alarms available? Information from MSHA's website was provided to the attorney. Kenny Miller suggested that he could ask the MSHA inspector about

whether white noise warning devices could be approved at his site. Township Attorney, Trevor Oliver, will check on the availability of new backup alarms.

The Development Agreement needs to include: berming/trees, berm location, paving, fencing, trucking hauling pattern, site and reclamation plans.

Gary Smith is in the process of resurveying the property line between his property and the gravel pit. The line between Gary Smith's property and the mine will be fenced entirely. The rest of the current mining area will be fenced.

Kenny commented that it was discussed to pave to the scale. He thought the final agreement on the blacktopping was to blacktop to the gate, if necessary.

3. Hansen Covenant Letter

The Clerk sent a letter to Butch Hansen asking for the original document, so the Township can file the agreement. To date, no response has been received. The Township Attorney recommendation was to pursue some action to enforce the agreement rather than revoking the agreement at this time, such as an order from the Court to requiring him to record the declaration. There is also the issue of payment of fees. He was given 15 days to bring in the cancelled check. Currently it is at 12 days.

A motion by Supervisor Carrie Jennings: If in three days the documents are not received, to give Nancy permission to talk to Trevor about enforcement. Discussion followed. The 15 day period was for bringing in the cancelled check. The document letter did not state 15 days. Supervisor Carrie Jennings withdrew her motion since 15 days is a moot point.

The Town Board asked the Clerk to send a registered letter to Mark Hansen, since he is the Trustee and a signer on the restrictive Covenant. The letter should include a 15-day response period, and if no response is received within 15 days of the date of this letter, the Township will consider further action to enforce the settlement. Copies of the two most recent letters that were sent to Butch will be included with the letter sent to Mark. If there no response, it will be turned over to the Attorney for follow-up.

4. Sauber Trust Letter- payment of expenses incurred in mining reclamation dispute

The Town Board reviewed the letter drafted by the Attorney to be sent to the Sauber Trust.

A motion by Supervisor Nancy Sauber: That the record show that, contrary to what was stated at the Annual Meeting, the Sauber Family Trust did not agree to the payment of one-half of the expenses incurred in the protracted process of reclamation at their mining site. They were not present at the October 13, 2009, Town Board meeting at which Kenny Miller offered to pay one-half of these expenses if his Letter of Credit was released, and at which a majority of the Board approved his offer. The letter asking for payment of the remaining money has not been sent to the Sauber Trust to date. What obligation the Sauber Trust has is in reference to these expenses would come from the permit and the Ordinance language, as mentioned in the letter to be sent. The letter is the first time that they will have been asked to pay the remaining expense. The motion was seconded by Supervisor Carrie Jennings. Supervisor Kenny Miller recused himself from vote on this motion. The motion carried by unanimous vote.

The Clerk was asked to send the letter to Sauber Trust as drafted by the Township Attorney. The outstanding balance is \$5,093.16

5. Wat Lao

The Township Attorney advised that it is Wat Lao's responsibility to draft documents. A copy of Trevor's e-mail, explaining what needs to be done will be given to Wat Lao.

At an earlier Town Board meeting, Wat Lao was told that they did not need a permit for a gate. There is reason to believe that they would have thought that they did not need a permit for a fence since they were told that they did not need a permit for the gate. The Town Board was probably also unaware at that time that a permit is required to build the fence over six feet tall. This information came more recently from the Building Inspector in reference to the Building Code, and "fences six feet and over" was added to the building permit application form. Building Official, Scott Qualle has the plans for the fence. Wat Lao needs to complete a permit application for the gate and fence. The Town Board agreed that a penalty fee should not be imposed, since Wat Lao representatives were given the wrong information by the Town Board as the entire Board at a meeting.

6. Buffington

Mr. Buffington has an appeal in to the Department of Labor and Industry. Mr. Buffington has not picked up or paid for his building permit.

7. Charles Roberts, Plastic pipe structure at 26110 Ipava Ave.

Mr. Roberts has not turned in the application or plans for the plastic pipe structure as he told the Town Board he would do in February. The Building Official left a notice; no response has been received.

8. Storlie Mine- additional amount owed for mine review 2008

The Clerk received payment from Mr. Storlie for the additional amount owed on the 2008 mine review.

9. Adelman Structure

The Building Inspector sent the Town Board an inspection report on the structure that is being built at the Adelman property. Supervisor Brian Budenski will follow-up with the Building Inspector on the inspection report.

10. Illegal dumping of garbage in Township road right of ways

The Township has the right to put up no dumping signs. The Township Attorney will check to see if it is appropriate use of Township funds to offer a reward if reporting an offender leads to an arrest and conviction.

12. HF1182 Signed into Law

The law which removes exemption for Pipelines and High Power Kilowatt lines was passed and signed into law.

13. TKDA Billing Question/ Brosseth Mine

Supervisor Carrie Jennings talked to Sherri Buss of TKDA about the questions that Ames Construction had on their bills. Supervisor Carrie Jennings thought that the billings are reasonable. The Town Board was copied on Sherri's response.

15. Frisbee Golf/ Castle Rock Township

Supervisor Brian Budenski attended the Castle Rock Township Public Hearing. The Castle Rock Planning Commission recommended that it be turned down. It is going before the Town Board on Tuesday night.

16. Kelly Aggregate Fence

The Kelly Aggregate mine is under the new Mining Ordinance. They are required to install a fence. Supervisor Brian Budenski will contact Kelly Aggregate about the fence.

17. Kelly Aggregate Berm-Complaint Follow-up

It was agreed that the berm mentioned in the complaint was satisfactory.

18. Denmark Maintenance

Road Supervisors Dan Rogers and Kenny Miller will meet with two Castle Rock Supervisors about Denmark Ave. Road Maintenance.

New Business

A. DNR Permit Lift Station

As part of the installation of the Lift Station at 235th St and Dodd Blvd, Ames Construction needs to place a pipe to dewater. None of the regulating jurisdictions have expressed any concerns with the dewatering.

Joint Powers Agreement for providing Law enforcement- with Dakota County

The County is asking the Township to provide a list of Ordinances that they are supposed to enforce. They are asking for a list before they sign the agreement. Supervisor Brian Budenski volunteered to create the list of ordinances that need to be enforced.

B. Ordinances [Nanett- This should be “C”-I couldn’t get it to do that.]

Supervisor Nancy Sauber presented the Town Board with handouts on proposed Ordinance revisions. She briefly went over what the handouts covered. She asked that the Town Board review the documents for discussion at the next Town Board Meeting.

A motion by Supervisor Nancy Sauber: To adjourn. Motion seconded by Supervisor Brian Budenski.

Meeting was adjourned at 12:41 a.m.