

Eureka Township
Dakota County
State of Minnesota

Eureka Town Board Meeting of May 9, 2011

Call to Order

Chair Brian Budenski called the May 9, 2011, Eureka Town Board meeting to order at 7:00 p.m. Members present were Supervisors Nancy Sauber, Brian Budenski, Dan Rogers, Pete Storlie and Kenny Miller. Clerk/Treasurer Nanett Sandstrom was present to record the minutes. Also present were Township Attorney Trevor Oliver and Lu Barfknecht as Planning Commission Liaison. See attached attendance sheet for additional persons in attendance.

The meeting opened with the Pledge of Allegiance.

Approval of Agenda

The following additions were made to the agenda:

Other Business L. Ceminsky Questions
M. Dee McDaniel's Letter

Old Business A. Misc Updates, 6. Other
a. Citizen Question on Lot Splits
b. Commercial Horticulture Road Use
c, Planning Commission Quorum
d. Buffington Update
e. Water hydrant question
f. Scott Qualle E-mail
g. Reminder on Wat Lao
h. Reminder on Windmill Mine site visit in June

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

Public Comment Period

Jeff Otto commented on the cooperative policy with the VRWJPO regarding the JPO's Water Resource Management Ordinance. See attached comments, titled "Public Comments by Jeff Otto, 25580 Dodd Blvd., May 9, 2011.

Georgie Molitor asked if a decision had been made regarding the use of white noise devices at Country Stone. The Town Board has not received the report from OSHA about whether these devices can be used at this site. Country Stone was to obtain the report from OSHA prior to their active season Georgie stated.

Deputy Sheriff Pederson stopped in to address the Town Board. In the spring, crime usually increases. Watch what is being put into outgoing mail, lock doors and do not leave valuables in the car. If you see anything suspicious, call 911.

Carol Cooper- 26437 Galaxie Ave., Farmington. Carol commented that a bear had been sighted in Eureka Township last week. Carol had additional comments on the VRWJPO permitting process. Timing on the permit applications was discussed at the VRWJPO meeting. Kathy Keena, the Dakota County Attorney who works with the JPO, commented, according to Carol, that there is no reason why the two processes couldn't occur simultaneously. Mark Zabel was concerned that if a Township permit were issued that building may take place before going to the VRWJPO.

Terri Petter reported to the Town Board on the VRWJPO meeting regarding her permit. Terri commented on the permitting process. If the two permits can be processed simultaneously it would be great. Terri commented on the delay in the application of the building permit, creating an emergency situation to move forward quickly in the permitting process. She stated that Nancy Sauber had made a comment at a previous Board meeting that Terri had waited so long, it was obviously not an emergency because the fire was last fall. Terri commented that the horse barn burned on November 15, 2010. It takes time to go through the insurance process. Weather has been a major factor for delays cleaning up and removing the old structure. She thanked the Town Board for treating it as an emergency.

Nancy Sauber commented for the record that she does not recall ever making such a comment about the circumstance not being an emergency. At the VRWJPO, she did comment that the barn had burned down a while ago. However, this was said without any added significance, but just in passing while commenting on the topic in general. She also asserted that this was said in the context of that the Town Board *was* treating it as an emergency situation, because the Town Board had a concern about the animals and their young being exposed to the weather. Nancy said that she had hoped that Terri would understand that. Nancy fully supported the Town Board's decision to process the permit for the reasons she stated at the time. Nancy also stated that she has been, and continues to be, the alternate Board person for the VRWJPO, which is why she attended the meeting.

Treasurer's Report

Checking Account Balance: \$836.82. Outstanding Checks \$351.08. Savings Account Balance: \$284,921.45. CD Account Balances: \$65,667.36. The Ledger Balance is \$351,074.55.

A motion by Supervisor Nancy Sauber: To approve the Treasurer's Report as presented. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

A CD maturing on 6/29/2011 will be discussed at the June Town Board Meeting.

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

Bills and Receipts

The Clerk presented the following bills for payment:

Henry's Excavating	Road maintenance thru 4/30/2011	\$9,423.00
MNSPECT	Inspection Service -April	\$280.00
Dakota Electric Association	Town Hall Electric	\$86.78
Frontier Communications	Phone Service Town Hall	\$111.10
Culligan	Water Softener Town Hall	\$23.51

Dick's Sanitation	Garbage Service Town Hall	\$44.48
T & C Commercial Cleaning	Clean Town Hall – May	\$42.85
Kelly & Lemmons	Legal Services thru 4/30/2011	\$1,582.25
PERA	Payroll Period 4/1/2011 to 4/30/2011	\$194.88
Nanett Sandstrom	Expenses 4/1/2011 to 4/30/2011	\$69.25
TKDA	Commercial/ Industrial Study	\$1,122.67
MN Depart of Labor	1 st Qtr State Surcharge 2011	\$197.60
MN Assn. of Townships	Training- Nancy Sauber	\$45.00
IRS	May Deposit 941	\$321.46
Goldmine Dezine	Newsletter	\$191.49
Eureka Sand & Gravel	Class 5 Road Gravel	\$1,307.30
ProService Lawn	Lawn Maintenance April 2011	\$429.24
Castle Rock Materials	Limestone	\$1,118.56
Carol Kelly	PC Recorder Payroll 4-1-2011 to 4-30-2011	\$70.76
Nanett Sandstrom	Clerk Payroll 4-1-2011 to 4-30-2011	\$1,055.93
Total Bills Presented		\$17,718.11

The Lawn Service included \$140 for removal of gravel from the Town Hall property ditch.

A motion by Supervisor Nancy Sauber: To approve Claims List and Net Pay Account Distribution as presented. The motion was seconded by Supervisor Dan Rogers. Roll call vote was taken on the motion: Kenny Miller- aye; Pete Storlie-aye; Brian Budenski-aye; Nancy Sauber-aye; and Dan Rogers-aye. The motion passed unanimously.

Supervisor Nancy Sauber performed the internal check of the Clerk's books for April.

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.

The following receipts were received in April:

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<u>Local Permits</u>			
Capstone Bros. - Permit ET11-005	\$105.00	Gerald Swedin- Application Fee	\$25.00
Stephan Madden- Mine Review fee 2009-11	\$450.00	JK Construction- Permit ET11-008	\$105.00
Terri Petter- CUP Reviews & Kennel License	\$130.00	Lee West- Additional permit 10-20	\$30.00
Glory to Glory- CUP Review	\$25.00	Ollie Leine- 3 Lot of Record Requests	\$75.00
Lyndon Kinney- Permit ET11-006	\$105.00	Ollie Leine- Escrow	\$500.00
Gerald Swedin- Permit ET11-007	\$105.00	Terri Petter- Zoning permit 001019	\$20.00

• <u>Other Receipts</u>			
Dakota County- road allotment 2010	\$18,166.62	MN Dept of Revenue	\$213.28

TOTAL RECEIPTS AS OF April 30, 2011 **\$20,054.90**

A motion by Supervisor Nancy Sauber: To approve the remainder of the Financial Reports as presented, with the amendment on the Receipts Register to change to the plural on Terri Petter's CUP reviews. The motion was seconded by Supervisor Kenny Miller. The motion carried by unanimous vote.

It was noted in the receipts that Terri owes the Township \$5.00 for Zoning Permit 001019. (Terri did not have the exact amount owed on the permit, and the Clerk did not have change.)

A motion by Supervisor Brian Budenski: To approve Resolution 2011-06, A Resolution Contracting with a Town Board Supervisor. The motion was seconded by Supervisor Dan Rogers. Kenny Miller recused himself from voting on the motion. An affidavit will be signed by Supervisor Kenny Miller prior to the issuance of the payment of his claim for gravel.

Northfield Ambulance bill- Dan Rogers was unable to make contact with the Northfield Ambulance Association about its bill to the Township. The Claim was not paid this month. Once more information is received on the billing, the Town Board will move forward with payment of the bill.

CUP Review

Mark Nelson- airstrip

Mark Nelson was present to represent the CUP for his airstrip.

The Town Board reviewed Mr. Nelson's Airstrip CUP located at 5255 265th St. The floor was opened for public comments. Hearing no comments, the comment period was closed.

A motion by Supervisor Kenny Miller: To approve the review. The motion was seconded by Supervisor Nancy Sauber. The motion carried by unanimous vote.

Living Waters Church

Kevin Wold, Treasurer of Living Waters, was present. The church is interested in purchasing property located at 22459 Dodd Blvd. They would like to use the house as a church office and for various meetings. His e-mail was forwarded to the Building Inspector and Township Attorney for review.

The Building Inspector sent a response; it was distributed to the Town Board. The Township Attorney commented that the uses outlined are uses consistent with the use of a church. A CUP would include conditions on current use. The CUP could be amended in the future if a church is built.

Darrel Gilmer

Township Septic Inspector Darrel Gilmer was present to address some septic system issues in the Township.

1. Failing system There is a home on 245th that appears to have a failing system. Darrel was instructed to move forward with the test on the system and give notice to the property owner on what needs to be done to bring the system into compliance. If the property owner fails to repair the system, the Township can move forward with repairs and/or replacement and add it to his the property tax.

Upon completion of the test, if failing, a Septic Inspector notice will be given, allowing the property owner 10 days to make repairs to the system. If the property owner fails to comply with the Septic Inspector's notice, the Town Board will make the decision on the next step at the June Town Board Meeting.

Supervisor Kenny Miller will check to see if there are any monetary assistance programs for septic system replacements.

2. Non-pump remaining

There are 27 septic systems that remain on the non-pump list. Two notices have been sent by the Clerk; included in the second notice was that enforcement would be pending. The list was given to the Septic Inspector. He was asked to contact the property owners that an inspection of their system is required. Failure to have their system inspected/pumped will result in the Township obtaining an administrative warrant for inspection by the Township.

3. Receipt problem

The Clerk sent a letter to the property owner of the unidentifiable receipt. No response has been received. This property remains on the non-pump list. The Septic Inspector will be contacting the individual.

4. Country Stone Septic System

Supervisor Brian Budenski contacted Darrel in January and discussed the inspection of the Country Stone Septic system. Now that the snow is gone, the system can be inspected. Darrel was asked to write up a report for their file.

5. Non-Compliant systems

Darrel asked about non-compliant systems. The Clerk receives copies of non-compliant systems. They are forwarded to the Septic Inspector after the compliance period has expired.

Contractor Time

Township Road Contractor Mark Henry was present. Mark obtained quotes from M& R and Anderson for signs. The Township also received a solicitation from Mid States Blade & Chain. Mark was asked to get an additional price quote from Mid States Blade & Chain, as they were offering 10% off.. Safety Signs in Lakeville also sells and resurfaces signs.

There has been a lot of damage to Highview near Country Stone. The Township has an agreement with Country Stone to pay the Township \$2500 per year for road maintenance to Highview. This payment has not yet been received for this year.

Spot graveling is currently taking place. Spot graveling on 235th were emergency repairs; this was not part of the road budget for 2011. There will be more spot graveling this year. There are a lot of frost boils/soft spots on Township roads.

Land Use & Zoning Issues

1. Ollie Leine- Lot of Record Verification

Ollie Leine owns 3 parcels in Eureka Township. All three properties were Lots of Record prior to April 12, 1982. Two of the parcels have grandfathered building rights; Parcel 13-00500-011-26, & Parcel 13-01500-018-50.

The SE1/4 of the NW1/4 Section 15 also has a building right. It could be clustered closer to Cedar Ave.

The homestead currently has 2 homes. This Lot of Record could be split so each home is on its own property. If either home burns down or is destroyed by some means, the building rights on each Lot of Record would be retained if the homes are replaced within 12 months.

Building rights on a Lot of Record can be transferred to another contiguous parcel provided the requirements in the Ordinance are met.

The Township Attorney will review the documents and create a letter reflecting the buildability of the properties. Ollie was advised that the order in which certain actions could be taken will affect the buildability of the lots.

Other Business

A. Planning Commission Update

Lu Barfknecht was present as Planning Commission Liaison. Carrie Jennings was elected Chair. Mark Ceminsky was elected Vice Chair. The Commission members agreed to alternate as liaisons to Town Board meetings. Each member will inspect a section of Township roads monthly. The Planning Commission Policies and Procedures Manual will be updated.

Since the Planning Commission currently consists of 4 members, a quorum would still be 3 members, so two members may converse. This was affirmed by the Attorney.

No new applicants have been applied for the remaining open position on the Planning Commission.

Road Review

Road review notes were distributed to the Town Board members for their discussion and decision-making, which has to take place at a Board meeting, in compliance with the Open Meeting Law.

Repairs will be done to the roads before dust control is applied. Once mass graveling is done, dust control will be applied to those portions of the roads.

The following spot graveling/frost boils repairs were approved:

Highview Ave from 250th St., north to 240th St.- repair frost boil.

225th Street from Hamburg Ave west to Highview Ave.- repair soft spot at the railroad tracks

225th St, Highview Ave. to Dodd Blvd.- spot gravel

Highview Ave., 225th St. South.- repair frost boil and spot gravel.

235th Street, Dodd Blvd. to Scott County- spot gravel.

250th St. Dodd Blvd. to Scott County- spot gravel.

257th St., Dodd Blvd. to east- spot gravel. (mass gravel later, once road is firmed up)

Ipava, 250th St. south- spot gravel.

Ipava, where pipeline crosses- add spot gravel.

Jacquard Ave., 267th St. south - no hurry, sometime this summer.

Iberia Ave, 267th St. South- frost boil and spot gravel

267th St. Hamburg to Highview- spot gravel.

Fordham Ave., 247th St. north to 245th St.- spot gravel.

245th St., Fordham Ave. east to Essex Ave.- spot gravel.

245th Street, Essex east to Denmark- possible spot gravel.

Essex Ave., south to 225th St- spot gravel.
Fairgreen Ave., 255th St. South to 265th St.- spot gravel.
Fairgreen Ave. 265th south to 280th St.- spot gravel.
Denmark Ave- frost boils, spot gravel.

Mass graveling:

240th St., from the railroad tracks to Cedar Ave is scheduled for 2011.
257th St., Dodd Blvd. to east
265th St., from Denmark to Galaxie Ave.

Hamburg Ave. /Grenada Ave., 267th South to 280th St.- frost boils. Use gravel that is there, grade.
Mat is questionable. Save for next year.

Reset culvert 245th St. Dodd Blvd. to Scott County- Scott County damaged the culvert extension this winter when blading the road. Scott County will provide the Township with a new culvert extension section. The Met Council added extensions to the existing culvert, when adding width to the road. The Met Council will shoot the elevations. The Township will probably be responsible for the resetting of the culvert to the correct depth.

257th St., Highview east to 250th and Cedar (Pigtail Alley) -see how it shapes up. Not planning on graveling this year. Possible spot gravel.

220th St., east from Vermillion River crossing to Denmark. Need to get an agreement with Farmington that they will pay for gravel.

The Road Contractor was informed, as had been advised by the Attorney, that if at any time he decides to hire a subcontractor, he must inform the Town Board and his contract would need to be amended first.

The list will be prioritized, so dust control can be applied as soon as possible.

Highview Ave., 225th St North to 220th St. (Lakeville City limits) The road needs to be rebuilt. There are two stretches of 525 feet and 860 feet. (Near Country Stone) Need to reshape the ditches and lift the road over the Northern Natural Gas pipes. Rebuild the road to 9-ton standard. Country Stone trucks have basically ruined the road. Supervisor Brian Budenski and Supervisor Kenny Miller have been talking with Ron Bjustrom of Country Stone. They are also trying to contact Dave Fellon of Progressive Rail and possibly Regan of Hat Trick. For now the road will be graded daily. Signs will be put up.

Attorney Items

Fire Ordinance

The proposed Fire Ordinance was discussed. A motion by Supervisor Brian Budenski: to approve Ordinance No. 2011-03, An Ordinance Regulating Open Burning within the Township, and Authorizing a Service Charge for Certain Fire Calls. The motion was seconded by Supervisor Nancy Sauber. The motion carried by unanimous vote.

Summary for Publication: Ordinance 2011-03 establishes permit requirements for open burning in the Township. It defines terms relating to fires, prohibits burning of certain materials and provides for cost recovery for fire calls within the Township. A motion by Supervisor Nancy Sauber: To approve the summary as stated by Attorney Trevor Oliver. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

Fire Department Contract and Negotiations

Supervisors have not met yet with the Farmington Fire Department. Dan Rogers will talk to Lakeville Fire Department to see if they will take on more of the Township. Discussion will continue at the June Town Board Meeting.

Mahoney Letter

The Attorney presented a draft letter to be sent to Mahoneys. The Town Board approved the letter. The Attorney will draft a final version and send the letter.

Dumping Reward

The Attorney drafted language for the reward for certain information about those dumping materials in the Township. This language will be posted on the website and published in the next newsletter.

VariANCES

New legislation has passed. The Town Board can now consider variances once again.

Windmill Mine e-mail

Trevor Oliver commented it is not a legal issue, but a matter of squaring up what the Town has and what the Operator has for plans. This was to be dealt with as described in the Development Agreement. For minor changes, it is between the Operator and the Engineer, but for major changes or for anything the Engineer decides the Board should look at, it comes to the Board.

The Engineer stated that the vegetation on the berm is to be described in detail, and the fence needs to be shown on the plan. A question that remains concerns whether the berm goes as far as the trees that were to have been planted and if it is effective for screening the nearby house. The Town Board had agreed that the details need to be added to the plan. This was agreed to, but not done. If the Operator does not want to add the details to the plan, the Attorney said that then a formal letter needs to be submitted to the Town Board explaining why he does not want to make the changes to the plans. Kenny Miller agreed to make the changes to the plan, including a detailed planting on the berm and the fence between Gary Smith's property and the Mine site. Kenny commented that the berm does not go as far as the trees. The angle of the trees on the property *vs.* where the berm stops pretty much equates to the same sightline, Kenny stated. Ron Quanbeck has agreed with this statement, according to Kenny.

The Board agreed that Supervisor Nancy Sauber will speak with Ron Quanbeck about the berm, prior to Mr. Miller's amending the site plan. Once she has received Ron's response, it will be forwarded to Mr. Miller and he can proceed with the changes to the site plan.

TKDA Contract

The Attorney responded as asked about the TKDA contract and its termination clause. It is a standard, rather short termination clause, and, as such, is nothing out of the ordinary for this type of contract.

Membrane Structure Ordinance

This is still early in the development. The Attorney is still looking for models in other municipalities' ordinances to work from, but most other municipalities addressing these structures are prohibiting them, rather than giving performance standards for them.

Noise Ordinance

It is written, and Trevor is still working through the issue of any possible potential conflict with MPCA noise standards.

Motor Home

The Attorney commented that the definitions suggested are whatever they are in the MN State Building Code. Those exist outside of Township Ordinances and would prevail whether written in the Township Ordinances or not. Therefore, there is no need to put them in the Township definitions section.

Scott Qualle E-mail- Adding "Tours" to Ag Exempt form

Trevor said it can be added to the form. The basic determination if a building is Ag exempt is whether they qualify for the tax qualification and the use of the building. The addition of "tours" may help to determine if it is a commercial use beyond the agricultural use. That determination would be for the County Assessor and/or the Building Inspector to make.

Dee McDaniel's Letter

The Town Board received a cc of a letter sent to G & M Tree farm. Dakota Shoreland has some issues with their digging within the shoreland and installing a septic without a permit.

Minutes

Town Board Meeting March 14, 2011. A motion by Supervisor Nancy Sauber: To approve the March 14, 2011, Town Board Meeting Minutes as presented. The motion was seconded by Supervisor Brian Budenski. The motion carried by unanimous vote.

Reorganizational Meeting Minutes April 5, 2011. The following changes on page 6: Cannon River-Watershed assignment- Pete Storlie/ Nancy Sauber, Alternate. Vermillion River Watershed assignment- Nancy Sauber/ Pete Storlie, Alternate. 15. Technical Advisory Committee- delete. A motion by Supervisor Nancy Sauber: To approve the April 5, 2011, Reorganizational Meeting Minutes as amended. The motion was seconded by Supervisor Kenny Miller. Pete Storlie recused himself from voting on the motion as he was not present at the meeting. The motion carried by unanimous vote of Supervisors voting.

Town Board Meeting of April 11, 2011. The following change wording on page 6: Motion on Kelly Brosseth monitoring plan- "monitoring report" as an anomaly, but keeping it in mind in the future." A motion by Supervisor Nancy Sauber: To approve the April 11, 2011, Town Board Meeting Minutes as amended. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote of Supervisors voting.

The Clerk found an error in the Claims List presented earlier in the meeting. The Claims amount for PERA of \$242.50 was for April. The correct amount for May is \$194.88.

A motion by Supervisor Nancy Sauber: To approve the Claims List as amended. The motion was seconded by Supervisor Dan Rogers. Roll call vote was taken on the motion: Kenny Miller- aye; Pete Storlie-aye; Brian Budenski-aye; Nancy Sauber-aye; and Dan Rogers-aye. The motion passed unanimously.

The balance of the agenda items will be addressed at the June Town Board Meeting.

A motion by Supervisor Nancy Sauber: To adjourn.

Meeting adjourned at 11:47 p.m.