

Eureka Township

Dakota County

State of Minnesota

Emergency Town Board Meeting
June 27, 2013

Town Board members present were Kenny Miller, Pete Storlie, Steve Madden and Mark Ceminsky. Clerk/ Treasurer Nanett Sandstrom to record the minutes, and Township Attorney Chad Lemmons.

Chair Pete Storlie called the Emergency Meeting of the Eureka Town Board to order at 7:32 p.m.

Agenda: Discuss Condemnation Hearing regarding CapX and Eureka Township Road Right-of-Ways.

There is a hearing scheduled on Friday, June 28, 2013. Attorney Chad Lemmons on behalf of Eureka Township filed an objection to the petition for condemnation. The basis being that their parent intent to take an easement that is senior to the Town Road easement. Under the law they can't condemn public property or public rights unless they either have statutory authority or they show their easement is consistent with the easement that already exists in the favor of Eureka Township. Discovery was prepared on this basis also.

Robert Bauer on behalf of Prehall's filed an objection and also objected to the June 28th hearing and recorded an evidentiary hearing scheduled for July 11th.

Attorney Chad Lemmons expected nothing to happen at the June 28th hearing. The objections need to be dealt with.

Dakota County and CapX has filed a stipulation under which CapX recognizes the priority of the Dakota County easements for road purposes. Chad prepared a stipulation on behalf of Eureka Township basically following the stipulation that Dakota County and CapX have entered into, acknowledging the priority of the Town Road Easements in favor of Eureka. It is the present Town Roads we are protecting. Not future Town Roads.

Discussion followed on concerns with future Town roads and sewer and water placement.

CapX has not named all of the property owners. CapX is assuming that all road right-of-way easements are 66 feet. Eureka easements vary per road. There are no dedicated easements, only easements under statute. The widths of the roads need to be identified.

CapX has not finalized the route. They will have to amend their petition to include any new parcels and or landowners.

The Stipulation has been sent to CapX, if the Town Board approves the stipulation. CapX has agreed to do the same thing for Eureka Township as they have done with Dakota County. CapX still needs to provide their plans to the Township.

Mark Henry, Castle Rock Township was present and spoke on the issue. He is concerned with consistency of use. Who has the rights to damages and how much the damages are. They are creating a road easement not taking title of the land. CapX is making a lot of assumptions on easements.

The Township has an Ordinance on towers. There are setback requirements, so they cannot fall on easements. They are required to be located 50 feet back from the easement. CapX has stated that they are going to place the poles right next to the road right-of-way. If the tower is 160 feet tall then the fall distance would be 210 feet.

CapX has to follow Eureka's permitting process. You can't forbid them from putting in the tower, but you can regulate where they put the towers. They have a right for an easement as long as the use is consistent with the Township's use. They must meet Ordinance requirements. The Township should check with PC regulations on what control we have over their ability to place towers.

There was discussion on dewatering and the use of Township ditches.

The Town Board decided to not to file the stipulation at this time.

A motion by Supervisor Pete Storlie: To stay on the course set at the June 10th Town Board meeting, to attend the hearing, to have Chad Lemmons report back unless there is something urgent that needs to be addressed, at the July 8th Town Board meeting. Motion seconded by Supervisor Kenny Miller. Motion carried by unanimous vote.

Attorney Patrick Kelly will be attending the hearing on behalf of the Township.

A motion by Supervisor Mark Ceminsky: The Road Committee set a time and date to measure the roads that are involved in the CapX/ Great River Energy condemnation. To get the total widths of the road and ditch that is being used. Motion seconded by Supervisor Pete Storlie. Motion carried by unanimous vote.

A motion by Supervisor Kenny Miller: To adjourn. Motion seconded by Supervisor Mark Ceminsky.

Meeting adjourned at 8:22 p.m.