

Eureka Township
Dakota County
State of Minnesota

Eureka Town Board Meeting
July 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 Clerk/Treasurer Nanett Sandstrom, to record the minutes.

The meeting opened with the Pledge of Allegiance

Approval of Agenda

The following additions were made to the agenda:

New Business: B. Ditch Mowing Bids/ Ditch Mowing Recommendations

Citizen Business: C. Zimmer Lot Split

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

Audience Comment Period

There were no comments from the audience.

Minutes

The clerk entertained the following change on page 5- under Kelly Brosseth- “Kelly Brosseth will be charged for the Special Meeting”. A motion by Supervisor Cory Behrendt: To approve the June 9, 2008 Town Board Meeting Minutes as presented. Motion seconded by Supervisor Carrie Jennings. Motion carried by unanimous vote.

The following correction was made to page 5. The letter “B” was missing from Brosseth. It was noted that Supervisor Carrie Jennings submitted a written follow up on rationale for abstaining on the vote. A motion by Supervisor Cory Behrendt: To approve the Special Town Board Meeting Minutes of June 26, 2008 as amended. Motion seconded by Supervisor Carrie Jennings. Motion carried by unanimous vote.

Treasurer Report

Checking Account Balance \$897.13. Savings Account Balance \$135,298.21

CD Account Balances \$158,883.21. Total Account Balance \$295,078.55.

A motion by Supervisor Cory Behrendt: To approve the Treasurer’s Report of July 14, 2008 as presented. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

The 2 year CD is maturing on 7/17/2008. If it renews for 2 years it would be at 2.70. 5 year term 3.50. 1 year term 2.65. A motion by Supervisor Cory Behrendt: To renew the current matured CD for a 2 year term at Castle Rock Bank. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote.

The clerk received the audit report from Lewis and Kirsh. The Town Board was given the report for review prior to the meeting. The audit company did not find any areas of concerns or discrepancies in the books. The only comment noted was: "The Eureka Township has two office employees, the Clerk/ Treasurer and Deputy Clerk. The segregation of the accounting functions that is necessary to ensure adequate internal control is not possible. This is not unusual in Townships the size of Eureka, however, the Board of Supervisors should be constantly be aware of this condition and realize that the concentration of duties and responsibilities in two individuals is not desirable from an internal accounting control point of view."

Supervisor Carrie Jennings asked about items on page 6. B. referring to Basis of Accounting and C. Budgets "These statements do not reflect accounts receivable, accounts payable, or other accrued items, and, therefore, are not presented in accordance with generally accepted accounting principles." And "The Township does not budget for expenditures they expect to be reimbursed for from developers or other governments."

The clerk was asked to contact Lewis and Kirsh to find out if there are additional book keeping methods that should be used by the Township to keep records.

A motion by Supervisor Cory Behrendt: To accept the 2007 audit as presented. Motion seconded by Supervisor Carrie Jennings. Motion carried by unanimous vote.

Bills and Receipts

The clerk presented the following bills for payment:

Otte Excavating	Services thru 6/30/08	\$10,574.00
Dakota Electric	Town Hall	\$92.88
Frontier Communications	Phone service Town Hall	\$124.77
Culligan	Water softener rental	\$23.38
Dick's Sanitation	Garbage Service July	\$40.30
ECM Publishers	Legal Ads	\$28.00
Dubbels Lawn Service	Mowing thru June 2008	\$400.00
TDKA	Consultant Service- COMP Plan	\$4,141.70
City of Lakeville	2008 Fire Contract	\$29,270.00
Metro Sales	Toner/ service	\$222.93
Lakeville Printing	Newsletter	\$240.45
Georgie Molitor	Newsletter postage	\$252.00
Mike Greco	Reimbursement	\$27.39
Central Valley	LP for Town Hall	\$310.69
Kelly & Lemmons	Legal Services thru 6/30/08	\$2715.20
State of MN	2 nd Qtr Withholding	\$184.14
Nanett Sandstrom	Expenses 6/9/08 to 7/1/08	\$222.49
IRS	Deposit July 2008	\$672.15
PERA	Pay period 6/1/08 to 6/30/08	\$316.56
Dakota County Physical Dev.	RASP Signs	\$140.94
MNSPECT	Inspection Services June 30, 2008	\$11,142.94
MN Department of Labor	Surcharge Report 2 nd Qtr	\$832.72
MAT Agency	Deductible- Buffington	\$1,000.00

Dakota County Treasurer	Septic Permits 2 nd Qtr	\$80.00
Postmaster	P.O. Box- 6 mos	\$27.00
Tanya Otto	Septic Fee reimbursement	\$280.00
Nanett Champlain	Pay Period 6/1/08 to 6/30/08	\$1,833.50
Connie Anderson	Pay Period 6/1/08 to 6/30/08	\$219.33
Total Bills Presented		\$65,415.46
Additional Claim approved at Meeting		
Central Valley	<i>Prepay for 820 gallons LP @ \$2.18 per gallon</i>	\$1,787.60
Total Bills Approved		\$67,203.06

The following receipts were deposited in June:

• **Local Permits**

Sauber Plumbing- Septic Don Holt	\$280.00	Coreen Auge- Application fee	\$25.00
Sauber Plumbing- Septic Nordvik	\$280.00	Kathy Hohrman- Ag Permit	\$25.00
Vanguard- Bldg Permit- Glory to Glory	\$11,843.95	Controlled Air- Air conditioner	\$45.50
Jeff Grossman- Application fee	\$25.00	Ronald Kveton- Application fee	\$25.00
Jerry Zimmer- Application Fee	\$25.00	Julie Larson- Building permit	\$1,065.98
Tradition Title- Bldg per 08-11	\$4,741.75	Hoelt Signs- Application fee	\$25.00
Jerry Swanson- Deck Permit	\$186.60	Jeff Grossman- Application fee	\$25.00

• **Other Receipts**

Packett William—copies	\$8.50	Castle Rock Bank- Interest CD	\$349.08
Nanett Champlain —Town Hall Rental	\$25.00	Castle Rock Bank- Interest CD	\$382.17
C.S. Cooper- Newsletter Ad	\$125.00	Castle Rock Bank- Interest Sav	\$1,230.39
South Cedar Greenhouse- Newsletter Ad	\$35.00		

TOTAL RECEIPTS DEPOSITED IN JUNE 2008 **\$20,773.92**

The attorney bill was sent to Supervisor Cory Behrendt for review.

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

A motion by Supervisor Cory Behrendt: To approve prepay LP from Central Valley at 125% annual use (approximately 820 gallons) at \$2.23/ gallon. Motion seconded by Supervisor Carrie Jennings. Motion carried by unanimous vote.

Deputy Sheriff Jennifer Lenarz was present to take comments from the Town Board and citizens. She addressed an issue the Sheriff Department has been called to address several times over the past month. In the last 2-4 weeks they have received 8-10 calls on barking dogs at Vermillion Kennels. She has talked to the owner of the kennels and gave them a copy of the ordinance. The Sheriff Dept. is looking for a resolution to the problem. The Town Board briefly discussed the issue with Jennifer. Supervisor Jeff Otto will email an answer to Jennifer on Ordinance enforcement on barking dogs.

Supervisor Jeff Otto commented that he received a complaint in the last week on increased truck traffic on 225th between Dodd and Highview Ave. Last year the Town Board placed a 5 ton load limit on this stretch of road. He asked that the Sheriff Department monitor the use of this stretch of roadway.

All calls made to the Sheriffs Department are made through the 911 system. They are no longer using a separate number for non emergency calls.

Budget

The Town Board reviewed the budget.

Road Contractor Time

Road gravel delivery was delayed about a week, due to the delivery of gravel to other townships. Graveling of 225th St – from Cedar Ave. to the east started today. All the limestone will be applied first, then the Class 5 gravel. Spot graveling will be done on Highview Ave.

There are two noted locations that signs are being obstructed by brush: Fordham & 247th- curve sign and Caution Children at play sign on Cedar Ave just south of the Town Hall.

A stop sign will be replaced in Eureka Estates and 240th St., someone sprayed paint on the sign. The Town Board asked that an inventory of signs be taken, so that signs may be ordered if needed.

Supervisor Dan Rogers cleared brush from 240th and Highview Ave. to improve site lines.

Supervisor Cory Behrendt expressed concerns with grading of Granada Ave. The blade is cutting deep into the roadway and pulling up rocks.. There are ridges along the side of the road that a creating small ravines along the side of the road when it rains.

The road contractor commented that they are using a spike toothed edge on the blade that is supposed to cut easier in dry conditions. He will check the roads per Cory's comments.

There has been no progress on the two outstanding ditches clean up projects. The road contractor has not made contact with Mr. Ostlie. The road contractor will get in touch with Dan Rogers on the Eureka Estates ditch cleanup request.

The Road Contractor will remove low hanging branches over Township roads. Permission does not need to be obtained to remove branches directly above Township roads.

Planning Commission, land use permits and related items

Permit Requests

- 1. Jeff Grossman-** 24656 Fordham Ave., Farmington requested a permit to build a 36' x 80' Farm Building. (Property ID# 13-01500-015-77).

The Planning Commission recommended to the Town Board that the "use" better falls under the classification of a "private stable". At the present time the building permit application does not include a check box for a private stable. The application was changed as followed: The "mark" indicating a farm building was deleted. The "Other:" box was checked on the application and "Private Stable" was written next to the box. Jeffrey Grossman initialized the change to the application. It was noted that since the building is not an Ag exempt building the Planning commission will not be inspecting the setbacks. The building Inspector will be responsible for checking setbacks.

A motion by Supervisor Cory Behrendt: To approve the building permit for Jeffery and Elizabeth Grossman as amended for a private stable as presented. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

2. Todd Auge- 25656 Cedar Ave., Farmington requested a permit to build a 14' x 32' Farm Building. (Property ID# 13-02200-010-30).

The Planning Commission recommended to the Town Board that the "use" better falls under the classification of a private stable. At the present time the building permit application does not include a check box for a private stable. The application was changed as followed: The "mark" indicating a farm building was deleted. The "Other:" box was checked on the application and "Private Stable" was written next to the box. Coreen Auge initialized the change to the application. It was noted that since the building is not an Ag exempt building the Planning commission will not be inspecting the setbacks. The building Inspector will be responsible for checking setbacks.

A motion by Supervisor Cory Behrendt: To approve the permit for Todd Auge as presented with change noted above. Motion seconded by Supervisor Carrie Jennings. Motion carried by unanimous vote.

3. Ron Kveton- 16604 Cedar Ave. S., Rosemount requested to build a 128' x 40' Ag exempt pole building with a 36' x 32' entry at 25371 Dodd Blvd., Lakeville (Property ID# 13-01900-024-30) An Ag Exemption form has been completed.

A motion by Supervisor Cory Behrendt: To approve the permit for Ron Kveton for a farm building as presented. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote.

Ag permit #001005 was issued for \$25.00.

4. Karin Grossman- 6405 247th St W., Farmington requested to build a 24' x 10' three sided shelter for horses. An Ag Exemption form has been completed. (Property ID# 13-01500-017-77) Jeff Grossman was present to represent Karin.

A motion by Supervisor Cory Behrendt: To approve the application as presented for Karin Grossman for the construction of a farm building. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

Ag permit #001006 was issued for \$25.00.

Citizen Business

A. Rita Poppitz- Sauber Gravel Mine reclamation

The last Town Board Meeting they attended was October 2007. At that time the Town Board told them once reclamation was done and if they felt that it was not done to code that an engineer would be asked to inspect the property and the escrow money would be used to correct the work. On November 19th Sauber's had a meeting at the pit with both attorneys. Mr. Miller was present. This meeting was called because Mr. Miller had begun to strip their alfalfa field in effort to acquire more black dirt. All present agreed he could not do this. They left the meeting feeling confident that all unresolved matters would be done to the requirements of the permit. On January 11th a new survey was received from Mr. Miller showing the restoration, grading and top soil application complete. This survey did not show grading (Percentage slopes) and the sediment pond was entirely on the Sauber property. Previously the sediment pond was on both the Madden and the Sauber property and percentages of slopes were provided. Sauber's attorney sent a letter to Mr. Duffy on February 12, 2208 addressing the reclamation plans. *See attached letter.*

Jim Sauber commented that Mr. Miller attempted to seed the property this spring. He tried to loosen some top soil. He created ditches on the side banks. There has been a lot of erosion. In the bottom he threw the grass seed on the hard ground. The area is covered with weeds. The banks are too steep. They do not meet the proposed slopes. All the banks were to slope to the sediment pond, but here are several small ponds that have standing water.

Sauber's are asking that the soil adjacent to the pit area be tested, so that the 3" of topsoil being placed on the land as part of the reclamation be of the same quality as the existing topsoil.

Supervisor Dan Rogers told the Sauber's about three weeks ago that Mr. Miller was meeting with Maddens the next day. They have heard nothing since.

The Sauber's are not asking that the property be returned to the restoration plans of the original permit. The modified reclamation plan with the agreed upon concessions are fine.

The Township needs to get an engineer's report on the reclamation. If the engineer feels that the reclamation is not complete, then the Town Board can use the letter of credit to complete the reclamation according to the engineers report. The final step is for the Township to approve the reclamation and release the letter of credit.

Supervisor Carrie Jennings will contact TDKA. They will be asked to determine the compliance with the reclamation requirements and the ability to meet deficiencies in meeting the proposed reclamation plan. (Chapter 13, Ordinance 6- Pre existing mineral extraction facilities) Section 2. Performance Standards. Item C. Content of the reclamation plan, which includes requirements. They will be asked to contact Sauber's and to do a sight inspection and soil testing.

B. Prairie Creek School conduit financing

Caroline Jones, Director for Prairie Creek Community School updated the Town Board on there plans for expansion.

Bruce Lindgren, Academy Consultants explained that municipalities can issue debt to qualifying 501c3 (Schools) This would be conduit financing the city has no responsibility for any of the debt acquired by Prairie Creek Community School There would be 2.3 million dollars of conduit financing. This could be done by a bond or a public hearing. This would be municipal rate tax free financing. By Statute a charter school can not own property.

Attorney Trevor Oliver stated they do not do securities. He would need to contact the Township Bond Council for qualification and such. The Township costs are normally rolled into the bond.

Supervisor Cory Behrendt expressed concerns over the Township getting involved in the bonding business. It sets precedence. It would make the Township more attractive to churches and schools.

A motion by Supervisor Carrie Jennings: Upon receiving an agreement that fees will be covered that the township will investigate what conduit financing process requires and to look into what municipalities similar to the Township have used this process, to understand the process more thoroughly. Motion seconded by Supervisor Brian Budenski. Motion carried with one dissenting vote.

The Township attorney has not determined if a CUP is required to expand the school. Trevor Oliver will check with Attorney Christine Swanson.

C. Zimmer Lot Split from June Town Board Meeting

The Clerk informed the Town Board that Jerry Zimmer signed the bottom of the application that he is abandoning the lot split.

Old Business

C. Prairie Creek School- Land Swap- A Charter School qualifies as a public corporation. The question is whether the Township needs to be involved in the transaction. The Township is allowed to give property to a charter school.

The Northfield School District knows that Prairie Creek School should have received the land. They want the land to be given to the school in the same manor that it was given to them originally. Northfield School District gave the land to the Township and in turn the Township turned the land over to Prairie Creek School. The Northfield School District attorney has all the paperwork ready to go.

A motion by Supervisor Cory Behrendt: To approved proceeding with the land swap agreement with Prairie Creek School following a signed agreement for compensation of fees associated with the land swap. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote.

Other Business

C. Letter from Brian Watson- Dakota County SWCD/ Glory to Glory Christian Center

Russ Matthys representing Glory to Glory Christian Center and George Kohler their realtor were present.

Chair Jeff Otto briefly outlined the happenings surrounding the recommended delineation report. The need for a delineation report was identified in January. At the February 19th public hearing Mr. Matthys indicated they had been in contact with the SWCD. The field inspection was done by a consultant Wayne Jacobson on May 16, 2008. On June 16 Jim Davidson, SWCD was onsite for another purpose and noted some concerns dealing with potential wetland. Supervisor Carrie Jennings did a follow up inspection on June 22nd. On June 23rd the wetland delineation report was transmitted to Brian Watson's Office at the SWCD. His review concluded June 30th. He reported that the report was inadequate. There were inconsistencies and problems with the report. He communicated with the Minnesota Board of Water Resources staff. They decided it was necessary to convene a technical evaluation panel, which included the Township. It took place on July 7th. They reviewed the report to review the short comings and inconsistencies of the report. Within 24 hours a corrected report was submitted. Dakota County Soil and Water reviewed the report and conducted a field inspection on July 9th. They sent the Town Board a letter dated July 10th which included their recommendations. *See attached letter.*

Supervisor Jeff Otto read from an e-mail he sent to Brian Watson, he asked that this letter be entered into record. *See attached e-mail dated July 11, 2008.*

The details of the plan are referenced in the CUP. Attorney Trevor Oliver commented that the permit was written to allow for flexibility in making changes to plans including the vegetation plan and the wetland plan. Minor changes of the plan can be approved by TKDA. Major changes need to be submitted to the Town Board and approved by the Town Board. The Town Board needs to determine if this is a minor change or a major change to the plan.

The Town Board felt that changes presented were minor changes. The changes are based on Dakota Soil and Water Conservation District recommendations. The revised plan will need to be approved by TKDA.

A motion by Supervisor Jeff Otto: The Board accepts and approves the wetland delineation report as amended and presented on this date July 14th. Motion seconded by Supervisor Carrie Jennings. Supervisor Jeff Otto amended his motion to approve the Wetland report dated July 8, 2008 and to approve the de minimus exemption for 600 square feet of wetland fill. Supervisor Carrie Jennings accepted the amendment. Motion carried by unanimous vote.

Russ Matthys addressed the Board, as representative of Glory to Glory Church he stated that the church had no knowledge of the lack of process that occurred. He apologized for the church. He was embarrassed professionally that it occurred. The church has never built a building before. They hired a professional engineer to draw plans. They were to acquire a wetland specialist. They left it in their hands. He had no knowledge of wetland delineation until he was onsite on June 23 after conversation with Jim Davidson that there was potential for concern. He stopped construction in the area until the matter was resolved.

D. Kelly Brosseth- Interim Use Permit

Kelly Brosseth was present to inform the Town Board that he will be applying for a Level 3 Mining Permit. He does not have conceptual plans yet. He will be submitting the application to the Planning Commission in the next couple of months.

Kelly Brosseth is in the process of submitting the EAW. Supervisor Carrie Jennings was appointed as the Town Board Supervisor to be present for the LAP. Supervisor Jeff Otto is the backup. The plans will show that he will be mining below the water table. They will not dewater. They will use an electric operated dredge. The mine will be approximately 25 acres. Kelly Brosseth will pay for and submit the EAW to TKDA. The application will be submitted to the Planning Commission after the LAP review.

Old Business

C. Attorney Updates

1. **Friedges-** Attorney Trevor Oliver was directed to try and find a way to bring the business back to certain level of activity. He tried to find a time that the sight was in compliance to a non conforming level that the Town Board could ask it to come back to. In doing his research he did not find a level of activity that is compliant in the last 10 years. To maintain any integrity of enforcement the choices are: Initiate actions to shut down the operation, because they are noncompliant or ever was compliant or say were not going to bother. Factors involved: 1. Cost. 2. Consequences- The Township has the right to take this action, there are no issues of leading anybody on or statute of limitations has passed or we are prevented from enforcing the ordinance. Trevor addressed the concern of "Fairness of equal protection". Although Friedges has drawn the most volume of complaints, it is not the only property in this situation. Going into this the Town Board will need to be aware that they will have to do a series of actions on properties that are not approved uses.

Trevor does not feel that the Town Board is bound to any prior decisions. He has not found an ordinance, zoning, mining or otherwise that the operation has ever conformed with. The Township is on solid ground in pursuing that the operation be shut down and come into compliance with zoning. This is not an area that the Township can recoup its costs.

Supervisor Carrie Jennings reported that the PCA did an inspection on the property on July 7th. They were shown around the property, they did not see inside the building. They were told that the materials present were brought on site already processed. The PCA was particularly looking for any potential discharge of dye in water from the site. Dye was seeping under the berm to the south to the

road ditch and onto Cross Nurseries property. They are willing to do another inspection of the property, but would like to see the aerial photos of the property first.

The building inspector should be asked to inspect the septic system.

Pictures of the operation have been sent and are being sent to Chelsea Domeier, MPCA.

Georgie Molitor commented that the quality of the well water has dramatically dropped over the past 4- 5 years. The water tastes different. Friedges were to have the water tested last summer. The air smells like paint remover when they are mulching. Friedges buried several of the wood pieces under the berm that they were unable to process.

The county environmental staff will be asked to test the water. If there are water quality issues the PCA will take care of them, but the Township still needs to address zoning issues.

During the site inspection Friedges told the PCA that they have been in business for 40 years on this site. The Township attorney thought maybe 4-5 years, but not 40 years. He has not seen any version of ordinances that allows that type of business- materials to be brought in from off site and processing a commercial product. Processing and bagging of topsoil is not permitted under the zoning or mining ordinance. They have never truly conformed.

Supervisor Carrie Jennings will continue to work on the environmental component and Trevor on the enforcement component.

2. **Interceptor-** Patrick Kelly is working with the Met Council on this issue. Some of the basic questions have been taken care of, such as their obligation to restoring the street. Supervisor Brian Budenski is trying to get some confirmation from the site that the road will be built to specs that could be blacktopped. The Township is not looking for any more guidance from counsel at this time.
3. **Petter Kennel-** Attorney Trevor Oliver had received the list that Terri Petter put together for the Town Board. There are some animals on the list that are not going to qualify. There are four animals under any body's definition are not fur bearing animals, but are pets. Porcupines, woodchucks, skunks, coyotes. The question comes in with the numbers they gave us. There are huge ranges. The numbers are way different that the Petter's game farm reports of March 2007. There are only 4 categories of animals reported to the DNR which includes 6 wolves, 5 foxes, 1 lynx and 1 raccoon. All the other animals on the Township list are required to be reported to the DNR.

The animals Ms. Petter keeps are clearly not livestock. The ordinance exempts these animals from the definition of livestock. The conflict that we may have trouble resolving is a 10 acre site being used for some type of fur product. The ordinance does not allow for someone raising and selling of live animals that are livestock. The pelt, ultimately trophies, under the scope of the business described to the Township generally gives a smaller number of animals. When an animal dies of natural causes they are used for these purposes. With the maximum numbers on the list, it doesn't hold water. The obvious options for enforcement include: Misdemeanor citations, which are quick and easy to understand. Civil action- there are additional costs, it will take 9 months to a year. Other options in between- what is the real list. Regardless of the composition of their stock is, to have an emergency plan in place that is given to the Township. Need to determine if there is some type of fur product being produced. This will be listed as a general non conforming use.

4. **Krapu Resolution-** The resolution is a follow up to the report and recommendations that were adopted at the April 14th Town Board Meeting. All missing documents have been received, including the septic system site plan, individual septic system As-built, a copy of the inspection record and the construction plan/ noted changes approved by the building inspector. Supervisor Jeff Otto made a site inspection of the property. Photos were presented showing the vegetation on the berm and trees used for screening. Additional trees have been added, creating staggered rows of trees. The average heights of the trees are 10 feet or greater. Vegetation and shrubs are in place and growing on the berm.

Supervisor Jeff Otto moved for adoption of Resolution No. 69 with the change that we delete direction #2 “The Town Board will attempt to acquire for its records a replacement copy of the as-built plans with Inspector Hegner’s annotations” because the Town Board now has documents that satisfy this. Direction #3 will become Direction #2. Motion seconded by Supervisor Cory Behrendt. Motion carried by unanimous vote.

Deputy Sheriff report on Noise Complaints- Attorney Trevor Oliver indicated that as a practical matter you need someone to verify the barking dog noise, write a ticket and testify in court. A deputy needs to come out and hear the dogs barking and make a subjective determination that it is what we describe in the ordinance and issue a ticket. Enforcement of a noise ordinance is difficult. With dogs as other nuisances there is no objective measure for intermittent noise other than observing the barking in person.

Mrs. Krapu commented that the nearest neighbor is 538 feet away. There are two neighbors at this distance. The noise would need to be measured at this distance, not on the property. Officers have been on site visiting for a half hour or so and have not heard anything. If they had heard anything they would have issued a citation.

5. **Hat Trick Annexation-** The City of Lakeville is moving forward with Annexation by Ordinance. The Township has met and negotiated with both the City of Lakeville and the Regan’s, owners of Hat Trick Investments. The Regan’s have agreed to provide funding as compensation to the Township to be used in our Planning efforts. In particular interest to these gentlemen is the renewal of the study of potential zoning of commercial and industrial in the Township. This would take place once the comp plan is approved by the Met Council. \$15,000 will be given up front to the Township for general planning and \$10,000 when the Township starts making tangible steps towards progress of commercial and industrial zoning. The Lakeville negotiations also include a greater compensation required than by annexation by ordinance (\$1). \$5,000 plus \$1,200 for 2008 taxes.
6. **Unloading Facilities 225th St and Highview Ave-** Dave Fellon of Progressive Rail and Dan Regan of Hat Trick Investments were present. They are requesting a permanent pipe unloading facility to be located at 225th St and Highview Ave. This is similar to the transloading facility permitted last year. They are proposing a four foot berm along the road right of way. The berm will be a minimum of 53 feet from the center of the road (33 foot road right of way plus the 20 foot setback required by the ordinance.) This is a two year lease for storage of pipe from Northern Natural Gas. The wooden shipping pieces will be sent back on the rail cars, removed from the Township.

Supervisor Carrie Jennings commented she would like to see the berms removed. We can’t just keep adding berms to the landscape and expect things like drainage and being maintained. By adding a 4 foot berm does it require a land alteration plan to be reviewed? It changes slope and drainage pattern. We can’t place berms around the Township to hide ugliness.

The topsoil will be kept onsite. It will be used as part of the berms or landscaping.

Pat Regan commented that it was very clear that the second payment offered as part of the annexation agreement is contingent on them being able to use this site, their last remaining piece in Eureka Township after the annexation in some kind of economically viable way more so than agriculture. The second payment is contingent on some type of commercial approval being adopted on this property.

Chair Jeff Otto commented that he felt the agreement is a little more flexible than that. He would need to defer to the attorney's on that. The piece of property is in the candidate area. He does not have the understanding from the attorney that it is tied to this one piece of property. The property will be part of the study area. Being along the railroad it is a likely candidate.

A motion by Supervisor Cory Behrendt: To utilize the 13 acre parcel as delineated as an Interim Use Permit, north of 225th for a transloading site for Northern Natural Gas. The operation will include a 4 foot berm along the sides of the property as indicated on the provided plan. Once the use is completed the property will be restored. Additional road maintenance and dust coating will be provided by the entity providing the transportation.

Hat Trick asked that the site not be restored, but remain a transloading site. They are not asking for any long term, permanent approval of the property tonight.

Cory withdrew the reclamation- restoring the site. The site will continue to be used as a transloading site. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

E. Planning Commission Update

Planning Commission Sharon Buckley updated the Town Board on Planning Commission business.

Old Business

B. Misc. Updates

2. Buffington vs. Eureka Township

The Town Board met with the attorney in a closed meeting prior to the Town Board meeting to discuss the law suit.

3. Northrup Complaint

The Township received a response letter from Mr. Northrup within the time frame allowed. A Board site visit will take place later in August.

4. Hoeft Complaint

The letter has been sent to Mr. Hoeft. The Town Board is waiting for his response letter.

5. Windmill Complaint

The Town Clerk received a complaint by voice mail that the crusher was running prior to 7:00 am and the berm has not been completed. Supervisor Jeff Otto communicated with Mr. Miller. Mr. Miller said that they were repairing the crusher and were testing the equipment prior to 7:00 am and had started crushing. He apologized and has informed the crew that operation is not allowed prior to 7:00 am. Supervisor Brian Budenski will follow up on the berm issue.

6. Chub Lake Road

Supervisor Jeff Otto has not received a response from Diana Regenscheid, DNR.

7. CapX2020 Power Line

Comments are due August 22. Supervisor Jeff Otto will draft a document for Board review, prior to sending.

8. Newsletter

C. Jacobson Resolution

No update

D. Pederson Resolution

No update

New Business

A. Previously addressed

B. Ditch mowing- Dale Kuchinka quoted mowing of Township ditches, a 7 foot swath, both sides of the road at \$33.00 per mile.

Supervisor Brian Budenski will contact Mr. Kuchinka and have him start mowing of the ditches.

Clerk/ Treasurer Presentation

Information listed under the clerk/ treasurer presentation was distributed to the Town Board prior to the meeting for review. The following two items were discussed by the Town Board:

Dakota County Street Numbering- The clerk has contacted Randy Knippel, Dakota County Physical Development Department on the street numbering.

Dakota County septic inspection & upgrade program-

A motion by Supervisor Cory Behrendt: Not to participate in the septic inspection & upgrade program. There was no second to the motion.

A motion by Supervisor Carrie Jennings: To participate in the septic inspection and upgrade initiative for homeowners living in the Vermillion River Watershed. Motion seconded by Supervisor Brian Budenski. The motion carried with 3 Supervisors in favor and one opposed.

A motion by Supervisor Cory Behrendt: to adjourn. Motion seconded by Supervisor Brian Budenski .

Meeting adjourned at 12:17 am.