

Eureka Township
Dakota County
State of Minnesota

Eureka Town Board Meeting of August 12, 2013

Call to Order

Chair Pete Storlie called the August 12, 2013, Eureka Town Board meeting to order at 7:00 p.m. Members present were Supervisors Pete Storlie, Mark Ceminsky, Brian Budenski, Kenny Miller and Steve Madden. Clerk/ Treasurer Nanett Sandstrom was present to record the minutes, Fritz Frana was present as Planning Commission Liaison and Township Attorney Chad Lemmons was present. See attached attendance sheet for additional persons in attendance.

The meeting opened with the Pledge of Allegiance.

Approval of Agenda

Old Business: 1. Accessory Building Ordinance will be discussed under Other Business L.
4. Northfield Ambulance- move up on agenda to after Budget
6. Ron Enright- move to September agenda

Conduct ties in Other Business: C. Establishing Procedures

Dakota County Sheriff representative: moved to after Contractor Time

A motion by Supervisor Pete Storlie: To approve the amended agenda for the August 12, 2013. Motion seconded by Supervisor Mark Ceminsky. Motion carried by unanimous vote.

Public Comment Period

Ray Kaufenberg- 24510 Dodd Blvd. asked what the Town Board has found out about getting galvanized poles placed through Eureka Township by CapX opposed to the rust colored ones they have initially proposed. The Town Board will discuss this later in the agenda.

Allen Novacek, 24030 Iberia Ave commented on the appointment of Lu Barfknecht to the Planning Commission. He implied that the votes were not counted correctly.

The established procedure of the Town Board for appointing Planning Commission members and or voting on Chair and Vice Chair positions has always been by secret ballot.

Township Attorney Chad Lemmons commented that the correct procedure would be to collect the votes and each vote be read into the record individually. In the future either a role call vote should take place or each ballot should be read into the record, one at a time. The Township attorney will write a memo on the proper procedure.

Lu Barfknecht, 24585 Iceland Path commented on a visit she had from Allen Novacek relating to his comments tonight. She felt that things were being communicated inappropriately.

A motion by Supervisor Kenny Miller: To put into effect the procedure that Mr. Lemmons has outlined and keep it on file for future reference. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

Attorney Chad Lemmons commented on the vote for the Planning Commission member. Town Board members signed by written ballots, they were handed to the Clerk. The Clerk reviewed the ballots and informed the Board who received the most votes, which is part of the public record. The procedure followed with the minor exception that they should have been read out loud was proper. He sees no reason to reconsider it.

A motion by Supervisor Pete Storlie: The Planning Commission appointment of Lu Barfknecht is not an issue. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

Nancy Sauber, 9445 225th St. W. asked about sign replacement in the Township. She asked that this issue be discussed under contractor time. She encouraged the Town Board to ask the Township Attorney for advice and follow his advice for betterment of the entire Township.

Treasurer’s Report

Checking Account Balance: \$2,441.01. Savings Account Balance: \$404,590.12. CD Account Balances: \$70,846.59. The Ledger Balance is \$477,877.72.

A motion by Supervisor Kenny Miller: To approve the Treasurer’s Report of August as stated. The motion was seconded by Supervisor Mark Ceminsky. The motion carried by unanimous vote.

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

The Clerk presented the following bills for payment:

Henry’s Excavating	Road Maintenance thru 7/31/2013	\$8,997.50
MNSPECT	Inspection Service – July 2013	\$695.85
Dakota Electric Association	Town Hall Electric	\$155.60
Frontier Communications	Phone Service Town Hall	\$128.10
Dick’s Sanitation	Garbage Service Town Hall-July 2013	\$51.67
Culligan	Water Softener Service & Salt	\$81.84
Kelly & Lemmons	Service thru 7/31/2013	\$4,729.18
T&C Commercial Cleaning	Clean Town Hall July 2013	\$53.56
Clarks Lawn Service	Mowing July 2013	\$470.25
Castle Rock Materials	Limestone	\$1505.85
Eureka Sand & Gravel	Class 5	\$3,571.52
Beaver Creek Companies Inc.	Town hall Repairs- Ins. Claim	\$504.00
Gold Mine Dezine	Newsletter	183.18
Reliakor Services Inc.	Street Sweeping	\$662.00
Safety Signs, LLC	Signs	\$446.60
Contech Construction Products	Culverts	\$479.76
Farmington Printing	As-built forms	\$27.85
Buds & Bytes	Computer Tune-up	\$59.00

IRS	August Deposit	\$631.65
PERA	Payroll Period 7-1-2013 to 7-31-2013	\$368.50
Nanett Sandstrom	Payroll Period 7-1-2013 to 7-31-2013	\$1,388.96
Linda Wilson	Payroll Period 7-1-2013 to 7-31-2013	\$646.95
Nanett Sandstrom	Expenses 7-1-2013 to 7-31-2013	\$57.12
USPS	Stamps	\$46.00
Great River Energy	Escrow Refund Road Right-of-Way Permit	\$26,655.00
Mark Ceminsky	Reimbursement ink	\$265.94
Minnesota Pipe Line Co.	Escrow Refund Road Right-of-Way Permit	<u>\$27,500.00</u>
Total Bills Presented		<u>\$80,363.43</u>

A motion by Supervisor Pete Storlie: To approve the Claims List of August 12, 2013. Motion seconded by Supervisor Steve Madden. Roll call vote was taken on the motion: Kenny Miller-aye; Pete Storlie- aye, Mark Ceminsky-aye; Brian Budenski- aye and Steve Madden-aye. The motion passed unanimously.

The following receipts were received in July:

• **Local Permits**

Tacie Devasir-Permit 13-12	\$877.18	Asplundh Tree Experts- Utility Permit	\$1575.00
Fredrickson- Ag Permit 2013-6-03	\$50.00	Verizon (MCI)- CUP Review	\$45.00
Decks Unlimited-Application Fee	\$25.00	Otte Excavating- Septic Permit 13-07-18	\$280.00
John LaFavre- Ag Permit 2013-7-04	\$50.00	Bill Funk- Permit ET13-022	\$100.00
Dee Brothers- Ag permit 2013-7-05	\$50.00	Performance Plumber- Permit ET13-022	\$80.00
Victoria Cihak (Dee)- Permit 13-13	\$322.38	Andrea Borowitz- Permit 12-16	\$371.23
JB Woodfitters- Application Fee	\$25.00	Kathleen Hohrman- Permit 13-14	\$538.11
MN Pipe Line - Utility Permit	\$1,825.00	Sauber Plumbing- Permit ET13-023 & 024	\$230.00

• **Other Receipts**

Dakota County – 1st half taxes	\$238,565.44	LaVerne’s Pumping– Newsletter Ad	\$125.00
MN Pipeline – Escrow	\$27,500.00	MN Assoc. of Township - Ins. Claim	\$504.00
C.S. Cooper- Newsletter Ad	\$125.00	Gloria Belzer- CD	\$5.00
South Cedar- Newsletter Ad	\$35.00	Dakota County- Conservation Credit	\$1,612.91
Wally Bohrn– CD	\$5.00		

TOTAL RECEIPTS AS OF JULY 31, 2013

\$274,921.25

Affidavits for Conflict of Interest issues with Supervisor Kenny Miller, owner/ operator of Eureka Sand & Gravel and Supervisor Mark Ceminsky, owner/ operator of Beaver Creek Company Inc. were signed by each individual.

Outstanding Invoices

The Town Board reviewed the outstanding invoices.

Open Building Inspection Permits

The Town Board reviewed the Open Building Inspection Permits

Budget

The Town Board reviewed and discussed the budget.

Northfield Ambulance JPA

Brian Edwards, EMS Manager for Northfield Hospital and Clinics was present to answer questions. He was not present as a representative of the Northfield Area Ambulance Association.

The Ambulance Association has decided to dissolve. The ambulance service will continue to maintain the service levels the Township has come to expect. Any Township concerns or issues would be directed through Brian Edwards.

A motion by Supervisor Pete Storlie: The Town Board agrees to disband the Northfield Area Ambulance Association Joint Powers Agreement which will terminate on December 21, 2013. Motion seconded by Supervisor Kenny Miller. Motion carried by unanimous vote.

Road Contractor

Road Contractor Mark Henry was present to discuss road issues. The replacement of road signs was discussed.

The ditch project on Chub Lake hill is complete. The ditch was cleaned out, rip rap areas were placed to slow the flow, fabric was placed in the ditch and it was seeded with oats and orchard grass. The removed material was used elsewhere in the township where needed.

The washouts on Highview near Country Stone were discussed. They will be looked at during the Road Review.

The second application of Dust Control was discussed. It will be completed before Labor Day.

Gloria Belzer commented that 245th St. had flooding. She obtained permits from the DNR to remove the beaver dams on the river that were causing the flooding. She will continue to monitor and remove the beaver dams on the river.

Sheriff Representative

A Sergeant was present to discuss enforcement issues on Township roads. The Town Board specifically discussed truck travel on designated no trucks, local deliveries only routes.

There was discussion on Silver Cycling using Township and County roads. The Town Board asked if the Sheriff Department has an oversight of the event.

Planning Commission, land use permits and related items

A. Permits

1. Glenn Benson- 9250 267th St. W.

Glenn was present to represent his application. Glenn is requesting to build a 14'x18' screen porch onto his home. No VRWJPO permit is required for the project.

A motion by Supervisor Kenny Miller: To approve the permit as submitted. Motion seconded by Supervisor Mark Ceminsky. Motion carried by unanimous vote.

2. **Guy and Lisa Flickinger-** 10355 250th St. W.

A representative was present to represent Flickinger's application. Guy is requesting to build a 2 story home on his property. He has obtained a permit from the VRWJPO for the project. He has also obtained a Shoreland Building and Septic Permit from Dakota County. He provided the Town Board with documentation of the lot of record.

A motion by Supervisor Kenny Miller: To approve the permit for 10355 250th St. W, Property ID 13-01900-26-011 in the name of Guy and Lisa Flickinger. Motion seconded by Supervisor Steve Madden. Motion carried by unanimous vote.

3. **Bill Funk-** 23690 Jersey Court

Bill Funk was present to represent his application. Bill requested a permit to replace the deck and footings on his home.

A motion by Supervisor Brian Budenski: To approve the building permit application to replace the deck and footings at 23690 Jersey Court, Lakeville. Motion seconded by Supervisor Pete Storlie. Motion carried by unanimous vote.

B. Land and use Zoning Issues

1. **Jim Anderson-** 25275 Ipava Ave.

Jim Anderson was issued Building Permit #12-14 on 8-12-2012 for a garage and breezeway. Mr. Anderson has constructed the garage, but has not completed the breezeway. At the time the permit was issued, the garage needed to be attached to the home to meet Ordinance requirements. Since that time the Ordinance has been amended. Mr. Anderson is requesting a change to his permit. He does not wish to build the breezeway at this time.

A motion by Supervisor Mark Ceminsky: To permit Mr. Anderson to eliminate the breezeway off his permit due to new changes in the Ordinance. Motion seconded by Supervisor Pete Storlie. Motion carried by unanimous vote.

Supervisor Brian Budenski will inform the Building Inspector of the change to the permit.

2. **CUPs**

MCI CUP Review- Regan Site (Section 4)

MCI Communications Services, Inc. requested the renewal of the Conditional Use Permit covering the MCI fiber optic regeneration station located in Section 4 of Eureka Township.

No complaints or concerns were received. The 3 year renewal fee of \$45 was received, ending July 13, 2016.

Other Business

A. Citizen Business

1. Maydelle Rose- 25133 Cedar Ave

Maydelle addressed the Town Board on the flooding in Eureka Center on July 13th. She feels that the placement of the Town Hall has created the flooding. She also commented that there use to be a culvert under Cedar Ave. She wants to know what can be done about the flooding.

The Town Board listened to her concerns. They will evaluate the drainage issue as part of the construction of the storage building. Supervisor Mark Ceminsky will check with the County on the culverts under 250th St. He will also check to see if there was ever a culvert under Cedar Ave.

2. Complaint- Ag Tourism and conflict of interest-

A citizen submitted a complaint addressing concerns they had with Planning Commissioner Fritz Frana and his possible conflict of interest with the Ag Tourism text amendment.

The Township Attorney commented that the person themselves have to be the one to recuse themselves in a possible conflict of interest issue. They cannot be forced to do so. They only need to do so if they have a financial interest in the matter.

Fritz Frana, 23655 Jersey Court addressed the Town Board. He submitted the document he read into the record. *See attached document- Subject: Complaint – Agritourism – Conflict of Interest submitted by Fritz Frana.*

B. Planning Commission Update

Allen Novacek was present as Town Board liaison. He summarized the Planning Commission meeting.

Ag-Tourism Public Hearing has been set for Tuesday, September 3, 2013 at 8:00 pm.

The Planning Commission discussed Dakota County permit issuing of Shoreland permits and Dakota County Septic permits. They are following up on this and will report to the Town Board once information is received.

C. Establishing Procedures

The document *Establishing the Procedures of the Town Board Meeting and Planning Commission: Eureka Township* that was sent to the Town Board by the Township Attorney Chad Lemmons was distributed to the Town Board. The Clerk will add an addendum that outlines timeframes for posting notices and publications. This document will be forwarded to the Planning Commission.

D. Eureka Township Motorized Recreation Opportunity

Representatives interested in opening a motorized recreation site in Eureka Township in the MNDOT owned gravel pit, west of Dodd and north of 235th St. were present at the meeting to introduce the idea to the Town Board. The site is an existing piece of public land in Eureka Township. To purchase the property they would have to partnership with Eureka Township,

(a government body) Funding would be through a MN DNR Trails Grant. No funds would come from tax payers. The Township as landowner would be held harmless under current liability laws.

The facility would be open to the public free of charge. To use the property you would need an off road sticker. Enforcement would be through the clubs, DNR and local authorities.

Town Board concerns included noise and dust. They informed them that they have the right to proceed. If they choose to proceed they should work with the Planning Commission.

At 9:45 p.m. the Town Board took a recess. The meeting resumed at 10:00 p.m.

O. Old Business

1. Complaint Follow-up

a. Model Airplane

Supervisor Kenny Miller and Supervisor Steve Madden met with Mr. Willmott, Mr. Ahern and the neighbors. They were tasked to draft a written agreement to bring back to the Town Board.

b. & c. Terri Petter/ Dan Storlie exotic animal complaint & Callie Law

Paula Callie was present. She represents the citizens on Jersey Court. They are asking the Town Board to enforce the exotic animal ordinance with regards to the property at 10132 235th St. owned by Terri Petter and operated Dan Storlie. They are asking the Town Board to forward this to Township attorneys for criminal or civil enforcement.

The Town Board discussed the keeping of animals by Terri Petter. At the Town Board meeting of September 8, 2008, the Town Board determined Terri Petter's operation as a Commercial Ag Operation. December 12, 2011, on a Dakota County Sheriff Report, the Township Attorney stated that information possessed that this case is more a Federal or State issue than a Township Ordinance issue.

The Township attorney advised the Town Board that they are not bound to past Board decisions, but these can be used as guidelines. The zoning ordinances do allow fur farming as a permitted agricultural use. The only question is what animals can be maintained on the property to conduct a fur farming operation. State and DNR definitions are conflicting. The DNR statute that has that definition does not bind the action of local governments in terms of zoning issues. Sheriff actions are criminal actions. The Township needs to determine if they are going to take civil action.

The exhibition of animals needs to be separated from raising the animals for agricultural purposes. The exhibition is the lawsuit.

Based on the Board actions of 2008, based on the Police Report, Case File 11002119, that was made part of the record for the July 2013, Town Board meeting, based on previous Township Attorney Trevor Oliver and his comments stated earlier and the records and based on the exceptions 1. Animal Control Officer. It is not the Town Boards intent to interpret but to read the ordinance.

A motion by Supervisor Pete Storlie: The animals Terri Petter has are within line with the exotic animal ordinance of the Township. Motion seconded by Supervisor Steve Madden. Discussion followed the motion. Vote was taken on the motion. Motion carries vote 3 to 2.

d. Mr. Funk- septic complaint

The complaint on the location of Mr. Funks' septic system was withdrawn. The property was surveyed and septic system is located on his property and meets setbacks.

e. 24565 Iceland Path- possible ground contamination

Possible ground contamination- Supervisor Kenny Miller contacted the MPCA. A floor drain is not prohibited. Dakota County or the MPCA is not concerned or get involved unless there is a proven leak/ contamination.

f. Mahoney

All avenues have been exhausted. The Township will move forward with issuing a citation. Supervisor Brian Budenski will contact the Building Inspector and instruct him to send out a citation.

g. Country Joe Miller

The Building Inspector will be asked to visit Millers property and perform an inspection of the property.

h. Charles Robert- 26110 Ipava Ave- setback non compliance

The citation has been issued and filed with the courts. The first hearing date is set for August 23, 2013.

E. Road Tour Date

The Road Tour was set for Saturday, September 14, 2013 at 7:30 a.m.

F. Culligan Salt Service- key?

Culligan asked if they could get a key to the Town Hall to service the water softener. The Town Board felt they could make arrangements to make service calls during regular office hours.

G. Roads

CapX2020 Poles- from Public comment period. The Township attorney was asked to draft a petition to be sent to the Public Utilities Commission.

H. VRWJPO Management Plan Update

The VRWJPO is looking for input to help them update the Vermilion River Watershed Management Plan. Information and ideas should be submitted by September 15, 2013.

I. Plunkett's Report

The Township received a report from Plunkett's on rodent control. The service seems to be helping.

J. IT Contract

The Town Board discussed entering into an IT contract to keep computer equipment running efficiently. The Town Board authorized the Clerk to call Buds and Bytes on an as needed basis for computer support.

Currently the Clerk uses personal funds to purchase office supplies. The Town Board discussed opening an account with an office supply store, such as Office Max. Supervisor Kenny Miller will get the information needed to setup an account. A resolution needs to be passed for the account to be valid.

K. Accessory Building Size

Township Attorney Chad Lemmons sent the Town Board a memo on Accessory Buildings. The Town Board discussed the proposed language. This item will be added to the September Town Board meeting for additional discussion.

L. Dakota County Culvert

Dakota County is putting in a box culvert at County Road 80 and Denmark Ave.

M. Transfer Ordinance- Met Council

The Township received official word from the Met Council that the amendment meets the Comprehensive Plan Amendment Administrative Review Guidelines. The council waived any further review. The Ordinance 2013-04 Summary will be published August 16th in the Township Legal Paper.

N. Old Business- continued

3. Town Hall Storage Building

Preliminary drawings for the Town Hall storage building was presented to the Town Board for their review.

A motion by Supervisor Brian Budenski: To have Jacobson Engineering out of Lakeville, who own property in the Township come out and establish the lot corners and elevations. Motion seconded by Supervisor Mark Ceminsky. Motion carried by unanimous vote.

4. Fee Schedule- Sheriff Department

A motion by Supervisor Steve Madden: To adopt the Fee Schedule. Motion seconded by Supervisor Brian Budenski. A fee for truck route violations needs to be added. Motion carried by unanimous vote. *See attached fee schedule as attached to the Dakota County Sheriff letter dated June 14, 2013.*

5. Fee Schedule for Ordinance 7

Move to next September Town Board meeting.

6. Staff charges for Utility permits

A motion by Supervisor Mark Ceminsky: When billing for utility permits we bill office staff at \$45.00 per hour. Motion seconded by Supervisor Pete Storlie. Motion carried by unanimous vote.

7. Silver Cycling

Supervisor Brian Budenski will contact Silver Cycling to inform them that next spring they will need to have a plan with the Sheriff Department for a traffic control plan.

Minute Approval

A. Town Board Meeting of July 8, 2013

A motion by Supervisor Steve Madden: To approve the July 8, 2013 Town Board meeting minutes as presented. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

B. Special Town Board Meeting of July 22, 2013

A motion by Supervisor Brian Budenski: To approve the Special Town Board meeting minutes of July 22, 2013 as written. Motion seconded by Supervisor Steve Madden. The motion carried by unanimous vote.

Clerk/ Treasurer Presentation

A. MAT Legal Seminar

The Town Board received notice of the MAT Legal Seminar.

B. District 4 Meeting & Election Notice

Thursday, August 15, 2013, 7:00, Arlington Community Center.

A motion by Supervisor Brian Budenski: To adjourn. Motion seconded by Supervisor Mark Ceminsky.

The Meeting adjourned at 11:51 p.m.