

Eureka Township

Dakota County

State of Minnesota

Eureka Town Board Meeting
September 10, 2007

Call to Order

Chair Dan Rogers called the regular monthly meeting of Eureka Township to order at 7:02 PM. Members present were Supervisors Dan Rogers, Jeff Otto, Cory Behrendt, Gloria Belzer, Brian Budenski and Clerk/Treasurer Nanett Champlain, to record the minutes.

The meeting opened with the Pledge of Allegiance

Approval of Agenda

The following item was added to the agenda:

Contractor Time: Bill for Northern Natural Gas

Old Business: Item B. move to **Citizen Business** Item E.

Old Business: Add: F. Cross Nursery

G. Building right cluster procedure & Building Inspector
Sauber mine

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

Audience Comment Period

Gary Smith- 4628 235th St W. Farmington.

Gary commented that tonight the Town Board will consider a permit for a gravel operation.

This is a big project that will impact the community for many years to come. Gary submitted a recap of his comments presented at the public hearing. He asked that the Town Board choose wisely and to put safe guards into the permit.

Jody Arman Jones- 255th St. W. Farmington. Jody asked that items she had brought to the board's attention a few meetings ago be addressed: A foul smelling substance that was applied to Fairgreen Ave in the middle of the night and the eagles nest in the pipeline construction area- the pipeline company was not allowed to work the land until August 14th or later, when the eaglets had left the nest.

Minutes

Correction to the August 13, 2007 Bills: The wrong amount was paid to TDKA. The check no. 5139 was written for the entire project, not the amount owed. TDKA returned the check and it was voided. \$1,755.01 was deducted from the August 13, 2007 Bills. The corrected Total Bills for August are \$85,045.16. The treasurer report was also updated.

A motion by Supervisor Cory Behrendt: To approve the amended Treasurer's Report and Bills of August 13, 2007. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

The following correction was made to the August 13, 2007 Town Board Meeting Minutes: Page 5- Bill Diedrich remove: "The Town Board felt that the storage of the trucks on the property falls under home occupation." Page 7- Re-roofing add:"Roofing permits will follow the established permitting process." Page 9- above Clerk/ Treasurer Presentation add: The contact person for Dakota County Roads in the Pederson request is Donald McConnell. Miscellaneous clerical errors were addressed. A motion by Supervisor Cory Behrendt: To approve the additional changes to the August 13, 2007 Eureka Town Board Meeting in addition to the previous corrections to the Bills and Receipts. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

Treasurer Report

Checking Account Balance \$2,313.91. Savings Account Balance \$148,769.14.
CD Account Balances \$152,119.08. Total Account Balance \$303,202.13.

A motion by Supervisor Jeff Otto: To approve the Treasurers Report of September 10, 2007 as presented. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

Bills and Receipts

The clerk presented the following bills for payment:

BeSure Inspection Services	Inspection thru 8/31/07	\$2,022.96
Otte Excavating	Services thru /831/07	\$8,935.00
Dakota Electric Association	Electric Town Hall	\$93.46
Frontier Communications	Phone service Town Hall	\$126.29
Dick's Sanitation	Garbage Service August	\$35.61
Culligan	Water softener rental	\$23.38
ECM Publishers	Legal Ads	\$105.00
Nielsen Farms	Mowing Town Hall	\$425.00
TDKA	Eureka Sand & Gravel	\$276.07
Kraemer Mining and Material	Rock for Landscaping Town Hall	\$383.05
Central Valley	LP for Town Hall	\$91.83
Nanett Champlain	Expenses 8/1/07 to 8/31/07	\$110.43
Jerry Swedin	Refund Ag permit 4-14-97	\$70.00
PERA	Pay Period 8-1-07 to 8-31-07	\$311.96
IRS	Deposit 941- September 2007	\$990.53
State of Minnesota	MN Withholding 3 rd Qtr	\$302.04
Nanett Champlain	Payroll 8-1-07 to 8-31-07	\$1,879.28
Cory Behrendt	Supervisor Payroll 3 rd Qtr	\$230.87
Dan Rogers	Supervisor Payroll 3 rd Qtr	\$332.46
Jeff Otto	Supervisor Payroll 3 rd Qtr	\$230.87
Brian Budenski	Supervisor Payroll 3 rd Qtr	\$184.70
Mike Greco	Planning Commission Payroll 3 rd Qtr	\$323.23
Kenny Miller	Planning Commission Payroll 3 rd Qtr	\$221.64
Sharon Buckley	Planning Commission Payroll 3 rd Qtr	\$221.64
Ken Olstad	Planning Commission Payroll 3 rd Qtr	\$258.58
Total Bills presented		\$18,185.88

The following receipts were deposited in August:

• **Local Permits**

Majestic Remod- <i>Re-roof #07-08-031</i>	\$126.00	Leif Johnson- <i>Re-roof #07-08-036</i>	\$126.00
Jerry Swedin- <i>Re-roof #07-08-030</i>	\$101.00	Jerry Kennedy- <i>Application Fee</i>	\$25.00
C & J Roof- <i>Re-roof 07-08-030</i>	\$76.00	Diedrich Builders- <i>application Fee</i>	\$50.00
Steve Wentworth- <i>#07-08-033</i>	\$1,592.39	TECOR- <i>window permit</i>	\$60.00
Bill Adelmann- <i>#07-08-034</i>	\$896.21	LS West- <i>Re-roof 07-08-039</i>	\$126.00
Pagel Exteriors- <i>#07-08-</i>	\$126.00	William Nordvik- <i>Application Fee</i>	\$35.00
Winkler Land Co- <i>application Ag build</i>	\$50.00		

• **CUPs and Variances**

Mike Giles- <i>CUP Application Fee</i>	\$400.00	TECOR- <i>CUP Application Fee</i>	\$400.00
Mike Giles- <i>Escrow CUP Appl.</i>	\$500.00	TECOR- <i>Escrow CUP Appl.</i>	\$500.00
Dwight Pederson- <i>Escrow Var. App</i>	\$500.00		

• **Other Receipts**

Dakota County <i>-DNR PILT 2007</i>	\$1,513.85	Bob Johnson- <i>RASP Sign</i>	\$14.35
John Strunk- <i>landscape rock donation</i>	\$383.05	Bob Johnson- <i>History Fund</i>	\$.65

TOTAL RECEIPTS DEPOSITED IN AUGUST 2007 **\$7601.50**

It was noted that receipt #029867 was not listed on the Receipt Resister. This receipt is void. A motion by Supervisor Gloria Belzer: to approve the bills and receipts as presented. Motion seconded by Supervisor Jeff Otto. Roll call vote was taken on the motion:
 Supervisor Gloria Belzer- yeah Supervisor Jeff Otto- yeah
 Supervisor Brian Budenski- yeah Supervisor Cory Behrendt- yeah
 Supervisor Dan Rogers- yeah **Motion carried by unanimous vote.**

Budget

The Town Board reviewed the budget.

Road Contractor Time

Road sign were discussed. Supervisor Jeff Otto will work with Chris Nielsen on ordering signs that are needed. A motion by Supervisor Cory Behrendt: To approve the expenditures of the signs discussed. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote.

Bill for Northern Natural Gas

Supervisor Brian Budenski presented a summary of additional costs of road maintenance to certain roads in the Township June thru August, due to truck traffic associated with the Northern Natural Gas Pipeline construction. Additional maintenance costs included extra grading and dust control. Northern Natural gas has agreed to compensate the Township for additional road maintenance costs, due to the truck traffic on Township roads associated with the construction project. An invoice will be sent, showing costs incurred. Northern Natural Gas offered the Township a stock pile of extra gravel. Northern Natural Gas will haul and spread the gravel on Hamburg Ave. The Township will provide grading of the material on the road.

Substance spread on Fairgreen Ave

The source of the substance that was spread on Fairgreen between 255th and 265th St. is unknown. Kenny Miller commented that he was approached by a gentleman that was trying to dispose of chemicals, water, waste from a bio fuel – cooking oil processing plant in Elko/ New Market. This may be the source of the substance. Jody Armen Jones commented that a Deputy Sheriff was stopped and took a look at the substance. A sample of the substance has been submitted for identification.

Reconstruction of 245th St.

Supervisor Gloria Belzer researched past minutes relating to the possibility of blacktopping 245th St W. in connection with the Elko/ New market Interceptor project. This was brought up at September 6, 2005 Town Board Meeting. At that meeting the Met Council had commented if Option 2 was chosen, 245th St could possibly be upgraded to blacktop. After discussing this issue with the Town Board at the August 13, 2007 Town Board Meeting, Commissioner Harris checked with the Met Council on the possibility of blacktopping 245th St. The Met Council said no, 245th will be rebuilt but it will not be blacktopped.

Project on 225th Street

This project is scheduled for September 18th-20th. The Road Supervisors were asked to contact Cal Pflaum and let him know of these dates.

Chub Lake Ditch Project

This project is scheduled to be completed upon completion of the 225th St. project.

The Wheel stops for the parking lot have arrived and will be stored until they can be installed.

Supervisor Brian Budenski will schedule fall ditch mowing.

Planning Commission

Possible Consent Agenda Items

Bart Winkler- 6670 235th St W., Farmington (Property ID# 13-00100-010-76) requested a permit for a 50' x 56' pole building for Storage of Tree Farming Equipment. He completed the "Agricultural Building Exemption Application" The driveway for the building is on a county road.

Zoning Compliance permit for an Ag. Structure #001002 was issued for \$50.00

Jerry Kennedy- 24280 Iberia Ave., Lakeville (Property ID# 13-24660-010-07) requested to build a 40' x 60' pole building on his property for personal use.

Building permit #07-09-036 was issued for \$804.04

Diedrich Builders- Requested a permit to construct a rambler style home with attached garage and 50' x 100' pole shed at 6035 235th St W. (Property ID #13-01100-010-30). The property is currently owned by Harold Wong. Kim and Jim Hoeft are purchasing the property. The building permit will be transferred to Hoefts upon the transfer of the property.

Building permit #07-09-037 was issued for \$6,029.89

It was noted that on Jerry Kennedy's application that the property ID# was missing. The clerk was asked to add it to the application. Diedrich Builders application- The property owner is listed as Howard Wong. Property records indicate that the property is owned by Harold Wong. Harold is the correct name for the property owner. This information was changed on the application.

A motion by Supervisor Cory Behrendt: To approve the consent agenda items as presented. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

Planning Commission Other Business

Westwind Education- 8215 240th St W. Lakeville has applied for a CUP for a small private school. A public hearing is scheduled for Tuesday, September 18, 2007 at 7:30.

Windmill Gravel Mine- Interim Use Permit for a Gravel Mine

Eureka Sand and Gravel, Inc. requested an interim use permit for the development of an aggregate extraction and processing (mining) facility on property owned by Windmill LLC located in the SW 1/4 of Section 12 Township 113 North Range 20 West.

The Town Board reviewed the Special Planning Commission Meeting Minutes of September 5, 2007, which included public comment, finding of facts, proposed conditions and the recommendation prepared by the Planning Commission.

The Town Board directed questions to Kenny Miller, owner and operator of Eureka Sand and Gravel.

The Town Board felt that all requirements in the ordinance were met and all of the citizens concerns were addressed.

A motion by Supervisor Cory Behrendt: To recommend the approval of Eureka Sand and Gravels request for an interim use permit for the development of an aggregate extraction and processing (mining) facility on the property located in the SW 1/4 of Section 12 Township 113 North Range 20 West based on the reasons outlined in the attached Findings of Fact and Recommendation and in accordance with and subject to the conditions outlined in EXHIBIT A. "Conditions" and in Eureka Sand and Gravels original application dated March 12, 2007. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote.

EXHIBIT A Conditions

1. The extraction shall cease upon depletion of the resource in accordance with the permit application dated March 12, 2007, or seventeen (17) years from the date of issuance of the Interim Use Permit, whichever comes first. Reclamation shall be completed within nine (9) months of cessation of extraction, as required by Township ordinance.
2. An eight (8) foot berm shall be constructed along the eastern property line of the site, in conjunction with stripping that precedes each phase of extraction. In addition, if the Township Engineer determines that it is necessary to meet the standards of Ordinance 6 regarding noise and dust control, the applicant shall plant shrubs or trees along the ridge of the berm.

3. No stripping of topsoil shall occur between June 1 and August 1 without written agreement from neighboring landowners.
4. Fencing on the east side of the Property shall be placed on the Property line.
5. As a part of the annual review, the operator shall include a report of the source of material and results of testing to demonstrate compliance with Ordinance 6, Chapter 7, Section 1-U-2-g.
6. As a part of the annual review, the operator shall report the quantity and type of imported materials used for processing and blending.
7. Internal traffic circulation shall be in a circular pattern to minimize noise from truck back-up alarms.
8. If Mine Safety Health Administration (MSHA) regulations for backup alarms change to allow use of less intrusive alarms, the operator shall retrofit equipment owned and operated by Eureka Sand and Gravel with such alarms.

Mike Giles- 23777 Cedar Ave, Farmington- Feed store and Ag Building

Mr. Giles submitted an application to the Planning Commission for a CUP to relocate Chub Lake Feed to 23777 Cedar Ave, Farmington. There was no representative present at the Planning Commission meeting to represent the application.

Mr. Giles had asked that a public hearing be scheduled prior to the Planning Commission Meeting being held. He was made aware by the Planning Commission Chair and Town Clerk that he would be responsible for application fee, publication costs and notification notice charges (\$100) if the Planning Commission cancelled the public hearing. At the September 4, 2007 Planning Commission Meeting the Planning Commission reviewed a memo, dated August 24, 2007 from the Township attorney and the application. They determined that the application was not complete and the use being applied for was not eligible for a conditional use permit under Township Ordinances. The Planning Commission rejected the application and cancelled the scheduled public hearing.

Mr. Giles told the Town Board that he felt that his application is complete and there is no reason to turn down the application. The building currently exists, parking and driveway. He is not starting up a business. He is moving a business that already exists to a new location. He would not be using the name Chub Lake Feed. He would be using a different name.

Planning Commission Chair Mike Greco had spoken to the Township attorney and specifically asked whether the use in question, based on the current use- "Chub Lake Feed" and based on Mr. Giles application whether it was eligible for a Conditional Use Permit. He specifically referred to the parts of the ordinance that was used to justify Chub Lake Feed, three or four years ago. The attorney's response was it was not eligible for a CUP then, it shouldn't have been granted and it is not eligible for a CUP now. The ordinance allows "Agricultural Service Establishments" (Grain elevator, meat processing plant), not "retail sales", which is what Mr. Giles is applying for.

Mr. Giles informed the Town Board that he wants to build another building to raise chickens and pheasants. The Town Board informed him that he needs to go through the Planning Commission to apply for a zoning permit for an Ag building. (Statute 16B defines Ag)

Weed Complaint- Conroy Farm

The Town Board received a complaint of Bull thistles growing on property owned by Conroy's on Denmark Ave. A certified letter will be sent to Conroy's informing them they must eradicate the thistles.

Noise Complaint- Hoes Property

Supervisor Jeff Otto received two phone calls of citizens complaining about activities taking place on August 25th on property owned by Jonathon Hoes at 4623 280th St W. Persons were racing or testing vehicle on the property- in the field, creating dust, noise and crashing into each other (concerns that they might leak fluids). Photos were sent, showing the activities. The Sheriff Department was called. A deputy responded and informed them that the activity must cease by 7:00 pm. The complainant stated that this type of activity takes place once or twice a year. Aerial photos show a track on the property. The clerk was directed to send a letter to Mr. Hoes stating that a complaint had been made against the property and to ask for a response to the letter, including an explanation and the nature of the events on August 25, 2007. Supervisor Jeff Otto will review the letter before it is sent.

Block party- Fordham and 245th St. W.

Supervisor Brian Budenski received a request from a citizen to close a portion of the road to hold a block party.

Due to safety issues and access for emergency vehicles, a public road cannot be closed to traffic. The clerk was instructed to send a letter to the petitioner stating the reasons the road cannot be closed.

CAPX 2020- Bev Topp

Bev Topp presented a draft resolution for the Town Board consideration. This resolution requests Dakota County Township Association to sponsor an informational/ educational meeting for all member Township citizens who may be affected by the proposed CAPX 2020 large transmission projects.

A motion by Supervisor Cory Behrendt: To adopt resolution # 60 of Eureka Township in regards to the Eureka Township Board requesting the Dakota County Township Association to sponsor an informational/ educational meeting for all members of all Township citizens. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote.

Other Business**A. Planning Commission update- Chair Mike Greco**

1. Building Inspector contract will be done for next month. A list of possible building inspectors has been compiled. Mike Greco is working on the RFP.
2. CAC Town Forum- October 2, 2007. They are requesting to send out a post card and 100 copies of the report, which includes 5 colored maps.

A motion by Supervisor Cory Behrendt: To approve the expenditures of an approximant 6 page summary report, post card mailing for the Town forum and full reports as required. To include any poster size maps needed for the presentation. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

3. The Planning Commission created the following three forms: Interim Use Instruction Sheet, Abbreviated Fee Schedule and Representative Authorization Form.

Supervisor Cory Behrendt will send the Representative Authorization form to the MAT attorney for review.

A motion by Supervisor Cory Behrendt: To adopt the Representative Authorization Form to be used in permitting and other applications tentative of any significant findings of attorney review. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

4. Tracking of permits that are issued:

A motion by Supervisor Cory Behrendt: The Board recognizes that the official start of the clock for the 180 days for a building permit is the final approval of the Town Board. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

B. Town Hall Rental Agreement

The Town hall rental agreement will be sent to the attorney once the attorney engagement letter is completed. Supervisor Gloria Belzer presented the Town Board on some options for door locks.

C. Quorum of Officers attending Planning Commission/ Board Meeting

It is important that all meetings be posted as the possibility of a quorum being present at any Township meeting. This has been the practice of the Township in the past. The clerk will check the posting Board and place this statement on all posting notices.

D. Flags

Table for October Town Board Meeting

E. Office help/ Deputy Treasurer

The clerk was instructed to check with the Township association to see if an office worker needs to be a deputy to be covered under E& O Insurance. If the clerk can find a person willing to be a deputy, she may move forward with hiring of the individual.

F. Building Inspector- Bob Hegner

The Town Board informed the building inspector of the adopted timeline for tracking of permits. The building code changes took place on July 10, 2007. Planning Commission Ken Olstad is working on building code updates.

G. Tom Chellberg- Westwind Education

Westwind Education is holding an open house for the neighbors on Saturday September 15, 2007 from 2:00 to 3:00 pm at the property on 240th St. Mr. Chellberg also invited the Town Board and Planning Commission members to the existing facility in Minneapolis, to see the school in action. Interested persons could call Mr. Chellberg to arrange a visit.

Old Business

A. Trailer- 8674 240th St W. Lakeville

The complaint against this property initiated at the July 8, 2007 Town Board Meeting. Supervisor Brian Budenski visited the property and reported his findings to the Town Board at the August 13, 2007 Town Board Meeting. Discussion on the item was tabled until the September Town Board

Meeting. A building (mobile home trailer) has been moved into the Township to be used as a storage building.

The Town Board looked at moving in buildings and the definition of a “Building” per Township Ordinance 1, Chapter 4. Building: Any structure having a roof which may provide shelter or enclosure of persons, animals, chattel, or property of any kind and which said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

Every building needs a building permit, unless it is less than 120 Sq Ft in size. It does not matter if it permanently attached to the ground, on skids or tie downs.

Ordinance 3, Chapter 4, Section 1. B. 5. Attachment to Ground - All structures, whether temporary or permanent in nature, shall be securely attached to the ground.

Ordinance 3, Chapter 4, Section 11. E. Any building or structure moved within or into the Township of Eureka must be placed on a proper foundation, and building permits must be obtained as for new construction.

The Town Board discussed what would constitute a proper foundation. The Town Board discussed placing a foundation under the structure or anchoring it to the ground. It must be securely attached to the ground.

According to the current Township ordinances the trailer is a building. It is an accessory use structure, which is a permitted use which was moved into the Township. The placement of the trailer must meet current setbacks as outlined in the ordinance.

A motion by Supervisor Cory Behrendt: The Clerk is to send a letter to the property owner. That after reviewing the structure on the property, the Town Board feels it is an accessory use structure that has been moved into the Township and that they must comply with Township ordinances which include: obtaining a move in permit and a building permit for that structure. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

B. Attorney Engagement Policy

Supervisor Cory Behrendt presented the Town Board with the updated policy. The Town Board reviewed the policy.

A motion by Supervisor Jeff Otto: To approve the Attorney Engagement Policy as presented. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

As outlined in the policy, Chair Dan Rogers is the secondary attorney contact person.

C. Policy for Handling Citizen Complaints on the Agenda

The Town Board reviewed the proposed policy. Policy statement should read: “This policy of the Township prevents instances of complaints insofar as possible and to deal properly with those that occur. Public complaints regarding the conduct or job performance of Township employees is not covered under this policy.” Remove last line under policy.

A motion by Supervisor Gloria Belzer: To adopt the Policy on Citizens Complaints with the corrections under Policy section. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

D. Vermillion River Watershed Local Plan

Supervisor Gloria Belzer updated the Town Board on the watershed plan. RFP and Interviews for a planner are in process by Dakota County Consultant Review Committee. Sample resolutions will be sent to the Township to engage in the joint effort for the Watershed Plan. The deadline for plans is June 2008.

E. Exotic Animals- Terri Petter

Supervisor Cory Behrendt pulled the letter out of the file that was previously proposed by the Township attorney. Cory updated the letter to include the Star and Tribune article and the June 5, 2007 date of adoption of the ordinance that prohibits exotic animals. The letter will be sent to Ms. Petter as drafted.

F. Cross Nursery Sign

Supervisor Dan Rogers visited with Don Cross on the relocation of the sign. This summer the sign was knocked over by the road grader. It was reinstalled but not in a location that meets ordinance requirements. Supervisor Brian Budenski will check and find out who reinstalled the sign. It needs to be relocated to meet ordinance requirements.

H. Building Inspector & Building Right Cluster Procedure

These items were added to the agenda tonight as a follow up from the Planning Commission update from the September Town Board Meeting. No discussion was needed on these items at this time.

New Business

A. Resolution No. 61- Local Board Powers to be Reinstated

A motion by Supervisor Cory Behrendt: To approve Resolution No. 61, a resolution which reinstates powers to the Local Board of Equalization. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote.

Clerk/ Treasurer Presentation

The clerk received brochures on LTAP training Opportunities and the 12th Annual Minnesota Development conference. The brochures are available for those interested.

A motion by Supervisor Gloria Belzer: to adjourn. Motion seconded by Supervisor Brian Budenski.

Meeting adjourned at 11:20 pm.

**Planning Commission
Township of Eureka, Dakota County, Minnesota
September 5, 2007**

Findings of Fact and Recommendation

IN RE:

Application of Eureka Sand and Gravel, a Minnesota corporation, for an interim use permit for an aggregate extraction and processing (mining) facility on Property located in the SW 1/4 of Section 12 Township 113 North Range 20 West.

On September 4, 2007, the Eureka Township Planning Commission met at a special meeting to consider the application of Eureka Sand and Gravel, Inc. (hereinafter referred to as “Applicant” or “Operator”), for an interim use permit for the development of an aggregate extraction and processing (mining) facility on the property located in the SW 1/4 of Section 12 Township 113 North Range 20 West (hereinafter referred to as “Property” or “Site”). Representatives of Eureka Sand and Gravel, Inc., were present and the Planning Commission (Commissioners Buckley, Greco, and Olstad in attendance) heard testimony from all interested parties wishing to speak at the meeting and now makes the following findings of Fact and Recommendation:

FINDINGS OF FACT

1. On March 12, 2007, Eureka Sand and Gravel, a Minnesota corporation, applied for an interim use permit for an aggregate extraction and processing (mining) facility. The site of the proposed use is currently in agricultural production and is owned by Windmill LLC.
2. Eureka Sand and Gravel is leasing the Property from Windmill LLC. The lease is an open-ended term on the site.
3. The property consists of 155.14 acres. Of that, approximately 74 acres is proposed for use in conjunction with the mining operation. The remaining property will remain in agricultural production.
4. The proposed project is compatible with local land use plans and regulations. The proposed project is located within Eureka Township. The current zoning of the property is Agricultural. Mining is an allowed use within the Agricultural Zoning District with an Interim Use Permit. Eureka Township has adopted a Comprehensive Plan which acknowledges the potential for sand and gravel extraction site development in the glacial outwash area in the northern half of the Township. The proposed project is consistent with the other comprehensive plan elements and with plan goals, objectives, and policies. The Township has adopted a mining ordinance and performance standards to minimize potential adverse impacts upon nearby residences and Township roads.

5. The application for an Interim Use Permit meets the standards and criteria for approval of the application outlined in Eureka Township Ordinance 6, Chapter 4, Section 2, A–J, as follows:
 - A. The use will not impact existing parks, schools, or other public facilities and utilities that serve or are proposed to serve the area. The site will be accessed off of C.S.A.H. 78 (235th Street), a blacktopped, 9 ton, County collector Road. The operator has obtained an access permit from Dakota County. The use is not anticipated to exceed allowable traffic levels for this type of roadway.
 - B. The use will be separated by distance or screening from adjacent agricultural or residentially zoned or used land in accordance with the requirements of Ordinance 6, Chapter 7 – Mineral Extraction Performance Standards. No evidence has been presented that the proposed use will depreciate housing values on adjacent properties or deter development of vacant land.
 - C. The use will be separated by distance or screening from adjacent land, bermed areas will be landscaped, and the actively mined portion of the site will be sufficiently recessed, such that the use will not unreasonably create an adverse effect upon adjacent residential properties.
 - D. The current zoning of the property is Agricultural. Mining is an allowed use within the Agricultural Zoning District with an Interim Use Permit.
 - E. The current zoning of the property is Agricultural. Mining is an allowed use within the Agricultural Zoning District with an Interim Use Permit.
 - F. The use is in conformance with the Eureka Township Comprehensive Plan as outlined in Finding #4 above.
 - G. No evidence was presented that the proposed use will cause traffic hazard or congestion.
 - H. The use will be separated by distance or screening from adjacent agricultural or residentially zoned or used land in accordance with the requirements of Ordinance 6, Chapter 7 – Mineral Extraction Performance Standards, and must comply with Minnesota Pollution Control Agency (MPCA) guidelines governing noise generation. No evidence was presented that nearby land uses will be adversely affected unreasonably by intrusion of noise, glare or general unsightliness.
 - I. The proposed project required an Environmental Assessment Worksheet, which found no potential for significant adverse impact to surface or ground water resources.
 - J. No dewatering will be permitted in conjunction with the proposed use.
6. Eureka Sand and Gravel’s application for an Interim Use Permit has followed the permitting procedure outlined in Ordinance 6, Chapter 6, Section 1, as follows: the applicant appeared before the Town Board at a regularly scheduled meeting on March 12, 2007, to make a preliminary presentation on the conceptual nature of the proposed extraction activity; a complete application meeting the requirements of Ordinance 6, Chapter 5, Section 1 – Application and Section 2 – Supporting Documentation, were filed with the Planning Commission at its regularly scheduled

meeting of April 2, 2007; TKDA, an independent, registered engineer licensed by the State of Minnesota and qualified in this field, was selected by the Town Board in April 2007 to review the application; TKDA submitted results of its findings, along with recommendations for action, to the Township on May 11, 2007; the Planning Commission and registered engineer prepared an Environmental Assessment Worksheet (EAW) according to Minnesota Rules Chapter 4410, which was completed June 1, 2007; the Town Board determined at its August 13, 2007, meeting that an Environmental Impact Statement (EIS) was not required for the proposed project.

RECOMMENDATION

To **approve** (3 ayes/0 nos) Eureka Sand and Gravel's request for an interim use permit for development of an aggregate extraction and processing (mining) facility on Property located in the SW 1/4 of Section 12 Township 113 North Range 20 West in accordance with and subject to the conditions attached hereto as "Exhibit A" and Eureka Sand and Gravel's original permit application dated March 12, 2007.