

Eureka Township

Dakota County

State of Minnesota

Eureka Town Board Meeting
September 11, 2006

Call to Order

Chair Cory Behrendt called the regular monthly meeting of Eureka Township to order at 7:00 PM. Present were Supervisors Cory Behrendt, Gloria Belzer, Gary Smith, Cheryl Monson, Dan Rogers and Clerk/Treasurer Nanett Champlain, to record the minutes.

The meeting opened with the Pledge of Allegiance.

Approval of Agenda

The following additions were made to the agenda:

Old Business: H. 24185 Denmark Ave- Lackore tree cutting
I. Schedule Town Board and Planning Commission Meeting with attorney

Other Business: A. Clarifications and Questions

New Business: E. Lawn Mowing
F. MAC Public Meeting at Town Hall

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

Audience Comment Period

Eureka Resident, Donna Rollins, commented about the last Town Board meeting when Supervisor Cheryl Monson made malicious innuendos about the Town clerk, She felt the innuendos were uncalled for.

Approval of Minutes

The following changes were made to the August 14, 2006 minutes: Page 1- Approval of Minutes- Supervisor Cheryl Monson's statement "none was submitted to date."

A motion by Supervisor Dan Rogers: To approve the August 14, 2006 Town Board Meeting Minutes with changes identified. Motion seconded by Supervisor Cheryl Monson. Motion carried by unanimous vote.

The following corrections were made to the August 14, 2006 Town Board Meeting continued on August 16, 2006 minutes. Page 2- Complaint Consensus- add: "in writing". Page 3- Terri Petter delete "boarding kennel" add: "Humane Society"

A motion by Supervisor Gloria Belzer: To approve the August 14, 2006 Town Board Meeting continued on August 16, 2006 minutes as amended. Motion seconded by Supervisor Gary Smith. Motion carried by unanimous vote. Supervisor Cheryl Monson abstained from voting, she was not present at the meeting.

Treasurer's Report

Treasurer Nanett Champlain reported that there is \$1,054.13 in checking, \$145,573.28 in the savings account and \$144,750 in CD investments. Overall total is \$291,377.41.

Motion by Supervisor Gary Smith: To approve the treasurer report as presented. Motion seconded by Supervisor Gloria Belzer. The motion carried by unanimous vote.

Bills and Receipts

Clerk/Treasurer Nanett Champlain presented the following bills for payment:

August 2006 Bills for September 2006 Meeting

PERA	Wages thru 8/31/06	\$322.96
BeSure Inspection Services	Inspection services Thru August 31, 2006	\$288.08
Farm Road Services	Services thru August 31, 2006	\$10,525.50
Dakota Electric		\$90.53
Frontier Communications	952-469-3736	\$113.41
Culligan	Water Softener Rental	\$23.38
ECM Publishers, Inc.	legal ad	\$176.50
Dick's Sanitation	Garbage service	\$35.79
Pat Fossum	expenses thru 8/31/2006	\$35.97
Connie Anderson	expenses thru Sept 2, 2006	\$46.83
Erik Leine	Mowing town hall August 2006	\$250.00
Nanett Champlain	Expenses thru 8/31/2006	\$85.51
Dakota County Assoc Of Townships Officers	Pump Maintenance 2006	\$1,345.41
Connie Anderson	Payroll thru Sept 2, 2006	\$236.64
Cory Behrendt	payroll 3rd qtr 2006	\$323.23
Gloria Belzer	3rd qtr payroll 2006	\$277.05
Sharon Buckley	payroll 3rd qtr 2006	\$258.58
Nanett Champlain	Wages thru 8/31/2006	\$2,017.94
Kevin Flaherty	payroll 3rd qtr 2006	\$147.76
Pat Fossum	wages thru 8/31/2006	\$78.50
Mike Greco	payroll 3rd qtr 2006	\$221.64
Cheryl Monson	payroll 3rd qtr 2006	\$230.87
Dan Rogers	payroll 3rd qtr 2006	\$323.23
Gary Smith	payroll 3rd qtr 2006	\$323.23
Rich Stevens	payroll 3rd qtr 2006	\$221.64
Wat Lao Of Minnesota	refund application fee	\$100.00
		\$18,100.18

The following receipts were deposited in August:

• **Building Permits**

Dale Leine- <i>Septic permit</i>	\$255.00	John Wolf- <i>Application Fee</i>	\$25.00
Kris Radford- <i>Pool Permit 06-08-016</i>	\$334.91	Brian Olson- <i>Pool Permit 06-08-015</i>	334.91
Burnsville plumbing- <i>HVAC</i>	\$90.00		

• **Other Receipts**

Dennis Hogan- <i>Rasp Sign</i>	\$11.63	Robert Ripley- <i>Escrow for variance</i>	\$500.00
Gloria Belzer- <i>Attorney fee</i>	\$124.50	Robert Ripley- <i>Application for variance</i>	\$250.00
MATT- <i>Refund for manuals</i>	\$60.00	Dakota County- <i>DNR Distribution</i>	\$788.36
Wat Lao- <i>Assembly permit</i>	\$100.00	Terri Petter- <i>Ordinance Book</i>	\$30.00

TOTAL RECEIPTS DEPOSITED IN AUGUST **\$2,904.31**

The escrow was received from South Cedar Garden Center, but has not been deposited.

The clerk informed the Town Board that the road and bridge fund has a negative balance. The Township will not receive the second half of 2006 levy until December. In 2004, when the audit firm, Abdo Eick and Meyers were hired, all reserve funds were put into the general fund. The Township had not been keeping track of the General Fund and Road and Bridge Fund as separate funds. When Abdo, Eick and Meyers divided reserve monies into the two separate funds, they did not take into consideration that the second half taxes for each year are received in December. To keep a positive balance in the road and bridge fund, some of the reserve money should be allocated for Road and Bridge. Transfer of Funds will be reviewed for action at next months meeting.

A motion by Supervisor Dan Rogers: To approve bills and receipts as presented. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

Budget

The Town Board reviewed the budget.

Planning Commission, land use permits and related items

John Wolf- 24170 Iberia Ave, Lakeville (Property ID# 13-24660-010-05) requested a permit for a 36' x 48" pole shed with 12' walls for personal use.

A motion by Supervisor Dan Rogers: to approve the permit as presented. Motion seconded by Supervisor Dan Rogers. The motion carried.

Building Permit # 06-09-019 was issued for \$612.26

Patrick Devney- 25735 Denmark Ave., Farmington (Property ID# 13002400-030-75 & 13-02400-030-75) Requested to split parcel E consisting of 2.5 acres from Parcels B& C consisting of 15 acres as shown in land survey dated 8-25-06. A motion by Supervisor Cheryl Monson to approve the lot split as presented. Motion seconded by Supervisor Gary Smith. The motion carried.

Dennis Ripley- 9460 235th St W, Lakeville (Property ID # 13-00800-020-50)

Mr. Ripley placed a variance request before the Planning Commission. The Planning Commission recommended that the request be withdrawn. They felt that the request did not meet the conditions of a variance. The Planning Commission recommended that a meeting be set with the township attorney and Ripley's attorney to try and determine if there is any course of action that could be taken to establish the lot as a buildable lot.

No written withdrawal has been received.

The November 12, 1984 minutes were reviewed. No motions were made to the buildability of the parcels. The exact intent of the discussion on the buildability of the parcels is unclear. The property was purchased as three parcels but recorded as two parcels. The Board felt the parcels represented two buildable parcels as recorded.

A motion was made by Supervisor Gloria Belzer: That Ripley's should work this out with Dakota County in which ever way they choose to do so. Motion seconded by Supervisor Gary Smith. The motion passed by unanimous vote.

The Town Board stands behind its prior decision that the property is not buildable under current ordinances. Reestablishment of a lot of record after April 12, 1982 is a non buildable lot. Ripley's need to come forward with evidence that it is a buildable lot. Documents need to be presented to the Town Board for further discussion.

A motion by Corey Behrendt: To ask the clerk to notify the Ripley's that the Town Board will take a 60 day extension on the variance in order to properly process the variance. Motion seconded by Supervisor Cheryl Monson. The motion carried by unanimous vote.

The variance application was accepted as a complete application on August 28, 2006. With the 60 day extension, the Town Board has until December 26, 2006 to complete the variance process. The extension will allow time for clarification of the intent of the application.

South Cedar Garden Center- 23111 Cedar Ave S. Farmington

Conditional Use Permit for a sign. The Planning Commission held the public hearing on September 4, 2006. No representative was present for South Cedar Garden Center, so no action was taken by the Planning Commission on the request.

A motion by Corey Behrendt: To direct the clerk to inform South Cedar Garden Center that the Town Board will be taking a 60 day extension on their request for a Conditional Use Permit for a sign and to question their intent on moving forward with the conditional use permit, that they are required to be present at the Planning Commission meeting on October 2, 2006. Motion seconded by Supervisor Gloria Belzer. The motion carried by unanimous vote.

Wat Lao of Minnesota- 22605 Cedar Ave., Farmington

Requested a license for an Outdoor Assembly to celebrate the new worship building on September 23, 2006. The Town Board reviewed Ordinance 5, Chapter 3: Outdoor Assemblies. It was determined a license for an outdoor assembly is not required by Wat Lao of Minnesota under Section 2. E. "This ordinance shall not apply to any regularly established, permanent place of worship, stadium, athletic field, arena, auditorium, coliseum, or other similar permanently established place of assembly for assemblies which do not exceed by more than five hundred (500) people the maximum capacity of the structure where the assembly is held."

The Town Board asked that Wat Lao continue to inform them of the dates of celebrations, if attendance at a celebration is expected to exceed d by more than five hundred (500) people the maximum capacity of the structure where the assembly is held a permit will be required.

A motion by Supervisor Dan Rogers: To waive the license for Wat Lao Celebration based on Ordinance 5, Chapter 3, Section 2. E. It does not apply to any permanent established place of worship. Motion seconded by Supervisor Cheryl Monson. A friendly amendment by Supervisor Corey Behrendt: to refund the \$100 license fee. The amendment was accepted. A vote was taken on the amendment, the amendment passed by unanimous vote. A vote was taken on the motion and the motion passed by unanimous vote.

Road Maintenance Contract Bids

Road Maintenance contract bids were opened at 8:10 pm. One bid was received from Farm Road Services. Copies were made of the bid and distributed to the Town Board. Chair Corey Behrendt read the bid. A few typographical errors were corrected in the contract. Exhibit A referred to liquidated damages, which is no longer included in the contract- Exhibit A was removed and corrections were made to Exhibit B. Exhibit C will be replaced by contractors bid.

A motion by Supervisor Gloria Belzer: To accept the bid. Motion seconded by Supervisor Gary Smith. The motion carried by unanimous vote.

The contract will be signed after the bond is received.

Hard Road Surface Project Bids

Hard Road Surface project bids were opened at 8:30 pm. 2 bids were received:

McNamara Contracting, Inc. of Rosemount.

Project 1: Eureka Estates- \$40,000.00

Project 2: Jersey Court- \$18,000.00

Project 3: Town Hall Parking Lot- \$26,000.00

Radloff and Weber Blacktopping, Inc of Prior Lake.

Project 1: Eureka Estates- \$89,750.00

Project 2: Jersey Court- \$34,500.00

Project 3: Town Hall Parking Lot- \$26,900.00

A motion by Supervisor Dan Rogers: to accept the bid by McNamara Contracting for project 1- Eureka Estates, blacktop overlay and project 2- Jersey Court, blacktop overlay amount for project 1 is \$40,000 and amount for Project 2 is \$18,000. Motion seconded by Supervisor Gary Smith. The motion carried by unanimous vote.

Eureka Township is responsible for trimming the brush and removing vegetation from the roadway.

Road Supervisor Dan Rogers will work with McNamara on getting work done.

A motion by Supervisor Cheryl Monson: We take up to \$26,000 out of the Savings Account, General Revenue Fund, as directed by the citizens, at the annual meeting to pave the new Township parking lot. Motion seconded by Supervisor Dan Rogers. 4 supervisors voted in favor of the motion, Supervisor Gloria Belzer opposed. The motion carried. Supervisor Gloria Belzer would like to table the item until next month, she felt that other hard surface options should be checked into and handicap requirements reviewed. (*See Special Meeting minutes of September 18, 2006 for more information on Motion.*)

Contractor Time

Road Contractor Concerns

The Eureka Town Board received a letter in their packets from Chris Nielsen of Farm Road Services, the current Road Maintenance Contractor. He is asking that Supervisor Gary Smith be removed from the duties as Road Supervisor. *See attached letter dated September 11, 2006.*

Supervisor Gary Smith stated that last month he had received a phone message from the chairman of the Board on August 18, 2006 stating that Mr. Nielsen had concerns working with him and that from this point on if he had any road issues they should be sent to Supervisor Dan Rogers and he would talk to Mr. Nielsen. Supervisor Gary Smith stated that he had no idea what the concerns were about. He left messages and it took about a week to contact the Chairman of the Board to find out what the situation was. It was still unclear what the issue was. The Town board received a letter tonight from Mr. Nielsen. Supervisor Gary Smith felt that this issue should be taken up tonight at a public meeting or go into a closed meeting on another date to address the issue.

Chair Cory Behrendt stated he did contact Supervisor Gary Smith. They were able to speak on August 28, 2006. Cory asked that communications be made through Supervisor Dan Rogers until the Town Board had an opportunity to discuss and deal with the issue. The Township is working with a road contractor without a contract at that point.

Any communications with the contractor outside of the regular road maintenance or snow plowing, such as tree trimming, ditch clean up and site inspections needs to be done in a written form. In emergency situations, written communications would not need to be done first, but should be put in writing, immediately or at earliest availability. This will provide written record of what is being asked of our contractor.

A meeting was set for Monday, September 18, 2006 at 7:00 pm, to address contractor conflict. *(The clerk contacted the MAT attorney and a closed meeting could not be held with an independent contractor. The special meeting was held as planned, but as an open meeting)*

Old Business

History Appreciation Project

The purpose of the project is to give recognition and show appreciation of those who have served the Township from 1858 to the present. Through research the committee has come up with 85 Town Board members, 50 Planning Commission members, 22 clerks, 10 treasurers, 37 task force members, 15 citizen advisory committee members and 4 newsletter persons. Plaque costs are estimated at \$2,000. The committee will raise funds. There will be no cost to the Township to complete this project.

A motion by Corey Behrendt: to allow the Historical Appreciation Committee to continue with their project at no cost to the Township. The Town Board is authorizing the fund raising necessary to complete the project- through adverting and newsletter inclusions and authorizing the guarantee of the historical display in the Town hall when completed. Motion seconded by Supervisor Cheryl Monson. The motion carried by unanimous vote.

Artwork in Town hall

Chair Corey Behrendt presented a draft policy for displaying artwork in the Town Hall. *See attached*

A motion by Supervisor Dan Rogers: To adopt the exhibit policy for artwork in the Eureka Township Town Hall and the exhibit contract as drawn up by Cory Behrendt. Motion seconded by Supervisor Gloria Belzer. The motion carried by unanimous vote.

Carolyn Papke will hold the position of exhibit coordinator until a coordinator can be appointed.

Building Inspector

Planning Commission is looking for completed permits. Building Inspector Bob Hegner is putting all non-actives file together to return to the Township. He will be attending the Building Code Conference September 14th through October 2nd. Minnesota will be adopting a 2006 Building Code. It will be a mandatory adoption for the new building codes.

MinnCan- Update

Corey Behrendt represented the Township resolution at the public hearing. The new proposed route will bypass the Diffley property. Information on the route can be found on the MinnCan Website.

Lighting of Flags

Supervisor Gary Smith has contacted an electrician for a quote on the flag lighting. The quote did not come in before the meeting- move to next months agenda.

Krapu vs. Eureka Township

The court case is still active; the Township was served with a Motion of Contempt or alternatively a motion to Compel. The Conditional Use Permit was given to the Krapu's by the Township, under the advisement of its attorney's. The Town Board felt that the CUP issued met the order of the Circuit and Appeals Court. The Township will defend its position. Kennedy and Graven will be representing the Township. This Firm was appointed by the MAT Agency. The costs will be covered under the insurance policy.

Country Joe Racing

The Town Board received a document from their attorney relating to how to handle the noise complaint and how to mitigate it. It included an analysis of Non Conforming Use based on our ordinances. This issue can be dealt with as a non legal non conforming use or deal with the noise aspect of the business.

Cheryl Monson presented the Town Board with copies of a document drafted by Peter Tiede, an attorney previously employed by the Township dated 10/11/2005 addressing non conforming issues. This is a attorney/ client privileged document. Cheryl wanted to make sure that the Township attorney has a copy of the letter. It clearly defines the intent the Town Board had in creating the ordinance. Cheryl stated "the Town Board did not make the non conforming businesses "legal" The Town Board accepted that they exist in the community as a business."

The Town Board discussed whether to make the document public. Town Board members wanted to review the document before making it public. At this time it will remain an attorney/ Client privileged document.

Complaint Update

Letters were sent out last month to Eureka residents. Residents receiving letters were given 30 days to bring properties into compliance. To date it has not been 30 days. John Wolf was not sent a letter of enforcement as he applied for a pole building this month.

Two citizens that received letters for non compliant swimming pools called the Township office and reported that their pools did not meet the definition as a pool in the ordinance.

Devney's will install a culvert on Denmark Ave, south of 240th St. W.

There is a culvert at 25301 Denmark Ave. The road contractor and road supervisor will work on getting it cleaned out.

Conroys have removed the house from the property. The falling down building remains. The clerk was directed to send a letter, stating that the Town board appreciates the work that has been done so far, and that the clean up process needs to continue as requested by the Town Board in the February 27, 2006, letter.

24185 Denmark Ave- Lackore tree cutting

Supervisor Gary Smith received written permission from Mr. Lackore to remove brush and trees from the property along Denmark Ave. Supervisor Cheryl Monson stated that she had been contacted by Mrs. Lackore and they would not stand behind the tree cutting agreement that they signed. They felt that they had been strong armed into signing the agreement. Supervisor Gary Smith stated that Mr. Lackore did sign the agreement, but put "reluctant" on the form. He did not talk to Mrs. Lackore.

Supervisor Cheryl Monson and Supervisor Dan Rogers will meet with the Lackores and draft a new written agreement for brush/ tree removal on the property.

Mr. Lackore did state to Supervisor Gary Smith that the moguls will be removed from the ditch when they move dirt for their new building.

Schedule Board and Planning Commission Meeting with Attorney

The Town Board wanted to get some clarification on non conforming use before setting up the meeting. A meeting will be scheduled in October.

Planning Commission Update- Chair Mike Greco

The Planning Commission has drafted a written procedure for decks, pools and septic systems. The procedure was presented to the Town Board. This procedure will be put into place.

The Planning Commission presented the Town Board with a list of specific questions for the attorney meeting. Chair Corey Behrendt will forward the list to the attorney.

Citizen Advisory Committee recommendation- the Planning Commission recommended the appointment of the following 15 citizens and 2 Planning Commission members to the committee: Jody Arman-Jones, Kathy Blair, Sharon Buckley (planning commission representative), Atina Diffley, Denise Griffith, Carrie Jennings, Ray Kaufenberg, Ed Korba, Janet Novak, Jeff Otto, Jim Sauber, Glen Shirley, Rich Stevens (planning commission representative), John Storlie, Pete Storlie, Ray Swedeen and Bernie Wood.

A motion by Corey Behrendt: To approve the appointment of the 15 citizens of the Township and 2 Planning Commission members to the Strategic Vision Advisory Committee as presented. Motion seconded by Supervisor Gloria Belzer. The motion carried by unanimous vote.

Strategic Vision Advisory Committee Kick off meeting is Tuesday, September 19, 2006, at 7:00 pm.

The Planning Commission made the recommendation to the Town Board that they drive the Township roads in October, along with the road contractor to make a recommendation to the Town Board in November for road projects for 2007. This road inspection would be in addition to the Town Board's road inspection in the spring. The Planning Commission will set a special meeting for road inspection.

The Planning Commission will prepare an article for the October newsletter on the strategic visioning process and an announcement on the deck, pool and septic procedure.

Mike Greco will be attending a MET Council Comprehensive plan workshop on Rural Planning, October 26, 2006. Rich Stevens and Mike Greco will be attending the North Cannon River Stormwater Ordinance training. Mike Greco is planning on attending the Dakota County 2030 land use plan process on Sept 27th, Dec 7th and Jan 11th.

Planning Commission member Sharon Buckley attended a Metropolitan Airports Commission meeting. She presented maps on long range Planning. They no longer include a cross wind runway. All plans include additional hanger space and include extending the runway.

A motion by Corey Behrendt: To approve the use of the Eureka Town Hall by the Metropolitan Airport Commission on either September 26 or October 3. Motion seconded by Supervisor Gloria Belzer. The motion carried by unanimous vote.

New Business

Mail Slot for Township Office

Item tabled until October Meeting.

City of Farmington-amendment to Comprehensive Plan

The City of Farmington received an application to amend the Farmington Comprehensive plan from Jerry Sauber property located at 3186 Vermillion River Trail. The Eureka Town Board did not feel that the comprehensive plan amendment would impact the Township. Chair Corey Behrendt signed the response letter, stating this response.

NCRWMO Storm Water Control Ordinance Training

Training scheduled on September 14, 2006 and September 28, 2006, at the Dakota County Extension and Conservation Center in Farmington. All Town Board and Planning Commission members should attend.

Sauber Family Mine

The Town Board received a letter from the Sauber Family Trust regarding reclamation of their property by Eureka Sand and Gravel. Chair Corey Behrendt will look into the request and what the options are for the request.

Lawn Mowing at Town Hall

The current lawn mowing service for the Town hall has resigned. Previous submitted quotes included Dean Monson at \$135.00 and Harold Beckett for \$147.75.

A motion by Corey Behrendt: To accept the next lowest bidder, as long as they have proper liability insurance to complete the year of mowing. Motion seconded by Supervisor Dan Rogers. The motion carried by unanimous vote. Supervisor Cheryl Monson abstained from voting, due to a conflict of interest.

The lawn maintenance contractor will be asked to submit a quote for snowplowing.

Other Business

Clarification and Questions

Supervisor Gloria Belzer asked if the required lot layout had been presented by Lackore's for their new building. The clerk has not received the lot layout. She had been out of town. The building permit has been issued by the building inspector. The clerk has a call into the building inspector to see if he received the lot layout. Follow up at October Meeting.

Supervisor Gloria Belzer made the following clarification: The July 11, 2005, Town Board Meeting minutes were approved on September 12, 2005, and there was also an attachment for the "Findings of Facts, Conclusions of Law, Order of Eureka Township Board regarding the request of Charles B (Butch) Hansen for a 2nd single family dwelling per Qtr/ Qtr section containing the farm dwelling".

Clerk/ Treasurer Presentation

Dakota County Officers Fall Meeting will be held at the Dakota County Extension Office in Farmington on Thursday October 5, 2006 at 7:00 pm.

MN Department of Agriculture is in the process of updating the 2000 summary of Animal- Related Ordinances in Minnesota. They requested a copy of the Townships ordinance. The clerk fulfilled this request.

Other items were presented for informational purposes. Information available from the clerk.

At 11:02 pm, A motion by Supervisor Cheryl Monson: To adjourn. Motion seconded by Supervisor Gloria Belzer.

Meeting adjourned at 11:02 pm.