

Eureka Township
Dakota County
State of Minnesota

Eureka Town Board Meeting of September 13, 2011

Call to Order

Vice Chair Dan Rogers called the September 13, 2011, Eureka Town Board meeting to order at 7:05 p.m. Members present were Supervisors Nancy Sauber, Dan Rogers, Pete Storlie and Kenny Miller. Clerk/Treasurer Nanett Sandstrom was present to record the minutes. Also present was Lu Barfknecht as Planning Commission Liaison and Township Attorney Trevor Oliver. See attached attendance sheet for additional persons in attendance. Supervisor Brian Budenski arrived at 7:13 p.m.

The meeting opened with the Pledge of Allegiance.

Approval of Agenda

The following additions were made to the agenda:

Other Business: "Newsletter" was added after Planning Commission Update.

A motion by Supervisor Nancy Sauber: To approve the agenda for September 13, 2011, as amended. The motion was seconded by Supervisor Pete Storlie. The motion carried by unanimous vote.

Public Comment Period

None

Treasurer's Report

Checking Account Balance: \$1,082.39. Outstanding Checks \$906.35. Savings Account Balance: \$314,197.77. CD Account Balances: \$66,520.18. The Ledger Balance is \$380,893.99.

A motion by Supervisor Nancy Sauber: To accept the Treasurer's Report of September 13, 2011, as presented. The motion was seconded by Supervisor Kenny Miller. The motion carried by unanimous vote.

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

The affidavit for payment to Eureka Sand & Gravel was signed by Supervisor Kenny Miller, owner and operator.

Bills and Receipts

The Clerk presented the following bills for payment:

| | | |
|--------------------------------------|---|------------------------|
| Henry's Excavating | Road maintenance thru 8/31/2011 | \$10,367.00 |
| MNSPECT | Inspection Services August 2011 | \$828.56 |
| Dakota Electric Association | Town Hall Electric | \$107.14 |
| Frontier Communications | Phone Service Town Hall | \$111.00 |
| Culligan | Water Softener Town Hall | \$23.51 |
| Dick's Sanitation | Garbage Service Town Hall | \$40.48 |
| T & C Commercial Cleaning | Clean Town Hall – September | \$42.85 |
| Kelly & Lemmons | Legal Services thru 8/31/2011 | \$1,397.50 |
| TKDA | Commercial/ Industrial Study | \$1,000.93 |
| PERA | Payroll Period 8/1/2011 to 8/31/2011 | \$159.04 |
| State of MN | Withholding 3rd Qtr | \$149.17 |
| ECM Publishers | Legal Ads | \$175.00 |
| Nanett Sandstrom | Expenses 8/1/2011 to 8/31/2011 | \$104.13 |
| Anderson Bobcat Service | Road Ditch Mowing | \$1271.00 |
| Safety Signs | Signs | \$123.60 |
| Contech Construction | Culverts | \$1,207.72 |
| IRS | September Deposit 941 | \$526.29 |
| Eureka Sand & Gravel | Class 5 Road Gravel & Washed Rock | \$706.12 |
| ProService Lawn | Lawn Maintenance August 2011 | \$482.06 |
| Central Valley | Prepay 500 gallons LP | \$756.88 |
| M&R Sign | Signs | \$111.15 |
| Brian Budenski | Town Board Payroll 3 rd Qtr | \$221.72 |
| Kenny Miller | Town Board Payroll 3 rd Qtr | \$169.83 |
| Dan Rogers | Town Board Payroll 3 rd Qtr | \$311.35 |
| Pete Storlie | Town Board Payroll 3 rd Qtr | \$240.59 |
| Lu Barfknecht | Planning Commission Payroll 3 rd Qtr | \$113.22 |
| Mark Ceminsky | Planning Commission Payroll 3 rd Qtr | \$160.40 |
| Carrie Jennings | Planning Commission Payroll 3 rd Qtr | \$141.52 |
| Gayle Klauser | Planning Commission Payroll 3 rd Qtr | \$235.87 |
| Connie Anderson | Deputy Payroll- Summer | \$294.84 |
| Carol Kelly | PC Recorder Payroll 8-1-2011 to 8-31-2011 | \$61.33 |
| Nanett Sandstrom | Clerk Payroll 8-1-2011 to 8-31-2011 | <u>\$860.35</u> |
| Total Bills Presented | | \$22,502.15 |

A motion by Supervisor Nancy Sauber: To approve the Claims List and Net Pay Account Distribution as submitted. The motion was seconded by Supervisor Kenny Miller. Roll call vote was taken on the motion: Kenny Miller-aye; Pete Storlie-aye; Nancy Sauber-aye; and Dan Rogers-aye. The motion passed unanimously.

The Town Board reviewed the following financial reports prepared by the Clerk: Current Investments, Statement of Receipts and Balances, Cash Control Statement, Disbursements Register, and Receipts Register.

The following receipts were received in August:

• **Local Permits**

| | | | |
|--|-----------------|---|-----------------|
| James Kaiser – Application Fee | \$25.00 | Scott Blair- Permit 11-08 Westwind | \$324.28 |
| Clearwater Plumbing- Permit ET11-01 | \$80.00 | Better Air Inc- Permit ET11-016 | \$115.00 |
| MC Contracting- Septic Permit 11-08-07 | \$280.00 | Standard Heating- Permit ET11-017 | \$50.00 |
| Julie Bixby- Lot of Record Verification | \$25.00 | Jill Woehrle- Permit 11-09 | \$616.23 |
| Jill Woehrle- Application Fee | \$25.00 | Jill Woehrle- Permit ET11-018 | \$50.00 |

• **Other Receipts**

| | | | |
|--|----------------|----------------------------|-----------------|
| Pat Brundige – Town Hall Rental | \$25.00 | Julie Bixby- Escrow | \$500.00 |
|--|----------------|----------------------------|-----------------|

TOTAL RECEIPTS AS OF AUGUST 31, 2011 **\$2,115.51**

Supervisor Nancy Sauber reviewed the Attorney billing charges, and they are appropriate.

A motion by Supervisor Nancy Sauber: To approve the balance of the Financial Reports as presented. The motion was seconded by Supervisor Pete Storlie. The motion carried by unanimous vote.

Budget

The Town Board reviewed the budget.

Chair Brian Budenski arrived at 7:13 p.m. and assumed responsibility as Chair.

Deputy Sheriff

A Deputy Sheriff was present to address concerns or issues in the Township. He reported on the Sheriff's response to the Ipava Complaint. They addressed possible violation of the noise ordinance and/or gathering in excess of 100 people. There were fewer than 100 people in attendance. The Sheriff spoke with them a couple of times on loud music issues. No citation was issued.

A few other issues were brought up by the Town Board on the Ipava Complaint. There was a large bonfire (larger than 3'x 3'x3'); was a permit issued? There were also fireworks reported at 2:30 a.m. The Sheriff's Deputy present did not know if a fire permit were issued and did not personally know about the fireworks.

The Deputy Sheriff commented that when a township has ordinances that clearly spell out what is considered a nuisance and how to enforce infractions, it is much easier for the Sheriff to do so. Too many ordinances are vague and pose a problem for enforcement. Nancy Sauber responded that the Board's looking at the proposed Sound Ordinance is being done for precisely that reason. The Sheriff requested a copy of the Ordinance once it is passed. The Township has a JPA with the Sheriff's Department for enforcement of its local Ordinances.

The Sheriff's Department also responded to a garbage truck that tried to cross the "road closed" barricade on Chub Lake Road. There was no damage. No citation was issued.

Road Contractor

Road Contractor Mark Henry was present to discuss road issues. Chub Lake Road is open. Brush mowing is completed (40 hours). Virtually the entire Township has been mowed. There were a just few areas on 225th St. that he was unable to mow in the allotted time.

The sign inventory is complete. A paper copy and a CD version of the inventory were given to the Clerk. Assessing the reflectivity of the signs is not complete and requires either a reflectometer or a person over 60 in a specific type of vehicle.

Minimal grading was done again this month because of the dry weather. Grading should be done when the road is moist from a rain.

Planning Commission, Land Use Permits and Related Items

A. Permits

1. Jim Kaiser

Jim Kaiser, 23645 Jersey Court requested to build a pole 44' x 36' pole building for cold storage. A variance of 10' closer to the road for the placement of the pole building was granted at the August 15, 2011, Town Board Meeting.

A motion by Supervisor Nancy Sauber: To approve the Building Permit application for Jim Kaiser for a pole barn for cold storage at 23645 Jersey Court. The motion was seconded by Supervisor Pete Storlie.

Supervisor Dan Rogers commented that the lot layout shows the house to be 69' from the road. The pole building shown is drawn closer to the road than the house and its measurement is given as 90' from the road. It was determined that the drawing was not to scale. Jim was asked to verify the distance between the house and the center of the road.

Vote was taken on the motion. Four Supervisors voted in favor of the motion. The motion carried. Supervisor Dan Rogers voted against the motion.

B. Land Use & Zoning Issues

2. Jill & Mike Woehrle- Pole building use

Mike Woehrle, 24215 Idalia Ave., requested a building permit for construction inside an existing pole building on his property. The building was originally permitted for cold storage. This type of permit to work inside a building usually is issued through the Building Inspector without going before the Town Board again. The Clerk, as Zoning Administrator, questioned whether the proposed use of the accessory structure fit into Township Ordinances. The Building Inspector reviewed the plans and approved issuing the permit. The Clerk was holding the permit, pending Town Board review. The Deputy Clerk was unaware that the permit was being held and issued the permit to Mrs. Woehrle. The application stated that an office and a ¾ bath were to be built in the pole building. It appeared that the remodel was creating living space.

Mike Woehrle commented that the area labeled as "office space" is going to be used for a study area for home schooling of his own children. The upper level will be for his sons to play musical instruments during their band practices. 60% of the pole building will remain as cold storage.

Current Township Ordinances allow the placement of only a half bath in accessory structures. If the Woehrles wish to install the shower, they would need to apply for and receive a variance.

The Town Board agreed with the Planning Commission's decision that this is an accessory use and the shower cannot be installed.

Other Business

A. Road Maintenance Contracts- 8:00 pm

Two Bids were received for Road Maintenance Contracts from Henry's Excavating, Farmington, MN, and Otte Excavating, Randolph, MN. The Clerk made copies of the submitted bids for Town Board review. The Clerk used the calculation chart created by Past Supervisor Jeff Otto; this chart has been used the past few years to compare bids according to the percentage of use in each category. The calculated value for Henry's Excavating was \$78.41; for Otte Excavating \$81.66, a difference of \$3.25.

Supervisor Kenny Miller asked the Township Attorney if he should recuse himself from voting on the Road maintenance contract. Mark Henry is a cousin, and Otte Excavating is a customer of Eureka Sand & Gravel. The Attorney advised that he saw no reasons for Kenny to recuse himself that rose to a level that a conflict of interest was involved. The decision to recuse or not is up to Kenny himself.

The Town Board reviewed the bids. Both parties have served the Township. The Attorney was asked to refresh for the Board what a "responsive and responsible bidder" was legally. It was determined that both parties are responsible bidders. Henry's Excavating was clearly the lower Responsible Bidder.

A motion by Supervisor Nancy Sauber: To grant the bid to Henry's Excavating based on a \$3.25 difference in his favor. The motion was seconded by Supervisor Pete Storlie.

Discussion followed: Road Maintenance complaints were discussed. No log had been kept by Road Maintenance Supervisors to document the complaints. There were issues with snow removal on Township Roads and at the Town Hall. These were briefly discussed. It should be noted that last year was an extremely hard winter. A Supervisor's opinion was offered that if the Board were to use the argument that complaints constituted a "failure to perform a contract," it should have clearly detailed and documented complaints in sufficient number to argue so. The accuracy of the bid calculator was also discussed. Supervisor Dan Rogers felt that it should be updated.

Vote was taken on the motion. Four Supervisors voted in favor of the motion. The motion carried. Supervisor Dan Rogers voted against the motion.

Road information from other Townships re: possible grading schedule adjustment

Supervisor Nancy Sauber collected some information from Town Clerks on their grading practices and costs. The information received was forwarded to Town Board members. Nancy was asked to compile the information for continued discussion at the October Town Board Meeting.

B. Sheriff's Sergeant Attendance

Addressed above under Sheriff's Deputy.

At 9 p.m. the Town Board took a brief recess.

C. Darrell Gilmer- Septic Inspector Discussion

Darrell expressed concerns he had with the proposed use in the Woehrles' pole barn. When they applied for the septic permit, they indicated that the sink would be for occasional use for washing hands after changing oil in a car. Because of this information given, the septic system Darrell approved and which was installed was not designed for everyday use. The Town Board suggested that he check the system in a year to see if it is adequate for the use.

Non-Pump Septic systems- Darrell has not had much success with non-compliant septic system owners. He was given a copy of the memo sent by Attorney Trevor Oliver on enforcement steps. He was also given copies of Administrative Warrants for inspection purposes. The Clerk provided Darrell with a copy of the Township Septic Ordinance.

Darrell reported that the Country Stone septic issues have been corrected. He will submit a report for the file.

D. Scott Qualle- Building Inspector Discussion

South Cedar Greenhouse- Scott requested a site plan showing all the buildings on the property and their current uses. A copy will be submitted for the Township file. The site plan indicates that all buildings are being used for Ag.

Wat Lao Fence- Dakota County had issues with the placement of the fence. It is in their Road right-of-way. Dakota County granted a variance for the fence.

Charles Liane- The "Hawkins trailer" was moved to his property. Scott had a conversation with Mr. Liane, who feels that he is exempt from anchoring the trailer and going through the permitting process because Mr. Hawkins won his attempted prosecution. Scott was advised to send a letter to Mr. Liane referencing the portions of the Building Code that apply. The trailer must be anchored. The trailer cannot be used for storage under Township Ordinance. Scott will also contact the County about the location of the trailer as it is within the floodplain of the Vermillion River. When asked, the Attorney reaffirmed that what the judge said concerning Mr. Hawkins and a permit does not apply to Mr. Liane and a permit. The basis for the judge's decision was the fact that Mr. Hawkins had been told by one Board Supervisor that he did not need a permit for the mobile home. Mr. Oliver did not agree with this decision, but in any event, that decision does not apply to Mr. Liane, as *no* Supervisor told him he did not need a permit for the mobile home.

Terri Petter- The Building Inspector has not received a response from Terri Petter on the moving in of the chapel. A follow-up letter will be sent. The deadline date given by the Building Inspector has passed, and this matter has to be addressed per the Ordinances.

When the permit was obtained for the latest ag building, it was questioned if a plumbing permit were required. The Building Inspector indicated that a plumbing permit is required anytime

you touch the potable water supply, even in ag buildings. When he sends the letter on the chapel he will ask specifics on the plumbing in the building.

Westwind Education- Westwind remodeled their building without a permit. A penalty was assessed for the permit. Scott asked for a copy of their Certificate of Occupancy (C of O) issued by Bob Hegner, former Building Inspector. The Certificate of Occupancy granted in 2008 was listed as “Residential” & “Business.” It is not an Educational Occupancy which is what is required. MNSPECT can reissue the C of O. They have reviewed and approved the building for Educational Occupancy. Scott will check with Darrell Gilmer on the septic system.

Kelly Aggregates Sign- The sign installation is complete. Scott was asked to verify the setback of the sign. Placement should be at least 48’ from the center of the road.

25573 Denmark Ave- The house has old building permits for an addition that have expired. Scott issued an inspection report stating that permits are expired, and the space cannot be occupied. There is a gentleman interested in purchasing the property. MNSPECT will be advising him as to what permits will be needed to finish the project.

Country Joe Racing- They inspected the property; there was drain tile work and grading. No construction work. They issued a “no permit required” notice.

Buffington- The permit has not been paid for. The Township Attorney will file the action by the end of the month.

Addition to Building Permit Application- The proposed addition to the Building permit by MNSPECT was discussed. It is regards to new EPA Lead Regulations for building contractors. Homeowners are exempt from the rule.

Clarification of Ordinance 3, Chapter 4, Section 7 - Standards for Accessory uses or Structures C. Area – The maximum total area of all accessory buildings or structures shall not total more than 200% of the primary structure total area.

The “total areas” are measured by the footprints of the structures. The total area of the primary structure would include the garage, but only if it is attached. Ag buildings are exempt.

Inspection Reports- Shooting and Building Inspection reports, Windmill Mine Inspection report and Mahoney Inspection reports have not been filed with the Clerk. Supervisors performing the inspections were asked to file these reports as soon as possible.

Windmill Final Site Plan- The final plan has not yet been submitted to the Town Board. The Attorney advised that the missing information could even be handwritten onto the plans by Ron and initialed by Kenny so as to avoid further cost to Mr. Miller from his own engineer. The main thing is to complete this process. The vegetation on the berms needs to be documented specifically, as shown on the Phasing and Mining Plan submitted at the time of the approval of the IUP. If a different MnDOT seed mixture was, in fact, used on the later, second berm as Kenny had stated, that should be so noted. Supervisor Brian Budenski will contact TKDA and let Ron Quanbeck know that what was represented to him by Nancy Sauber at the Board’s request is the information that needs to be shown on the final site plan so as to bring this matter

to a close. This information was requested by Mr. Quanbeck as Township Engineer, as provided for in Mr. Miller's Development Agreement. The Board agreed with Mr. Quanbeck's request and expects it to be followed through on.

Country Stone- There are still outstanding issues. Supervisor Brian Budenski continues to work with them on these outstanding issues.

Taskforce Postcard and Presentation- At Task Force member Nancy Sauber's request, the Town Board approved sending a postcard to remind citizens of the upcoming meeting on the Commercial/Industrial Study on September 26th. A copy of the presentation was sent to Town Board members.

Planning Commission Update

Lu Barfknecht was present as the Planning Commission Liaison. She updated the Town Board on Planning Commission business.

Town Board Discussion -Continued on various issues

Highview Ave- Upgrade to 9-ton road

Supervisor Brian Budenski proposed that the Highview Ave, north of 225th St. to the Lakeville border be improved to a 9-ton road. Dakota County would be asked to match funds on the road improvement. There is about \$28,000 in the County Fund for Eureka. The proposed cost of the project is \$35,000.

It was past 10:30 p.m., and Supervisor Dan Rogers needed to leave the meeting at this time.

The Town Board decided to continue the September Town Board meeting to another night and continue discussion on this issue at that time.

Chub Lake Road Project will be delayed until spring. They are trying to get DNR funds for the project. The road is functional at this point.

Lakeville Fire Department Proposal- Trevor Oliver commented that to break the Farmington Fire Contract there is a fairly long notice period. The Town Board will need to take action to cancel it and give Farmington notice. The Farmington formula does not make sense. Supervisor Kenny Miller will check with Supervisor Dan Rogers and let him know that he is getting involved. He will talk to the Lakeville Fire Department. This subject will be readdressed at the continued meeting.

J. Newsletter

The next newsletter is due to be out mid-October. Jody briefly outlined the proposed content of the pending newsletter. She will attempt to go through the process via email. Supervisors are encouraged to get back to her in a timely manner when she does so.

Minutes Approval

The following corrections were made to the August 15, 2011, Town Board Meeting minutes:
Page 6: Under Planning Commission Report. Last sentence "Mark" should be changed to "Jim Kaiser"
Page 7: End of First paragraph add: ", Dan Rogers voting against the motion."

A motion by Supervisor Nancy Sauber: To approve the Eureka Town Board minutes for August 15, 2011, as amended. The motion was seconded by Supervisor Kenny Miller. The motion carried by unanimous vote.

Clerk Treasurer Presentation

Propane costs have not gone down. Prepay is at \$1.87. The Town Board asked the Clerk to lock in the price.

A motion by Supervisor Nancy Sauber: To continue the meeting to a date to be determined by the Chair. The motion was seconded by Supervisor Brian Budenski.

Supervisor Nancy Sauber will co-sign the checks in Supervisor Dan Rogers' absence.

Meeting recessed at 11:01 p.m.