

***Eureka Township***  
*Dakota County*  
*State of Minnesota*

Eureka Town Board Meeting  
February 11, 2008

**Call to Order**

The Chair and Vice Chair were absent from the meeting. The clerk called the regular monthly meeting of Eureka Township to order at 7:00 PM. The clerk called for a nomination to appoint a Chair for tonight's meeting. Supervisor Gloria Belzer nominated Supervisor Cory Behrendt as acting Chair. Supervisor Brian Budenski seconded the nomination. Supervisor Cory Behrendt was nominated by unanimous vote to chair the meeting. Members present were Supervisors Cory Behrendt, Gloria Belzer, Brian Budenski and Clerk/Treasurer Nanett Champlain, to record the minutes.

The meeting opened with the Pledge of Allegiance

A motion by Supervisor Cory Behrendt: To appoint Supervisor Brian Budenski and Supervisor Gloria Belzer as check signers for this months meeting. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

**Approval of Agenda**

The following item was added to the agenda:

- Old Business:** F. 245th St. reconstruction- Interceptor line
- G. Public Data Practices
- E. Misc. Updates
  1. Resource Strategies letter
  2. Minnesota Pipeline vs. Oren Larson
  3. CEEF- Castle Rock, Eureka, Empire and Farmington

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

Attorney items will be addressed at 7:30 pm. Discussion on the Lakeville Annexation, Friedges, Krapu- Dog Kennel and Exotic Animals- Terri Petter.

**Audience Comment Period**

Supervisor Cory Behrendt opened the floor for public comment. Three calls for public comment were presented. Hearing none, the public comment portion of the meeting was closed.

**Minutes**

The following corrections were made to the January 11, 2008 Town Board Meeting minutes: Page 1- The Meeting date was corrected to: January 14, 2008. Page 7- June 12, 2006 was added to the Resolution date. A motion by Supervisor Cory Behrendt: to approve the Eureka Town Board Meeting minutes of January 14, 2008 as revised. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

## Treasurer Report

Checking Account Balance \$2,040.23. Savings Account Balance \$243,786.17.  
CD Account Balances \$156,126.91. Total Account Balance \$401,953.31.

A motion by Supervisor Gloria Belzer: To approve the Treasurer's Report of February 11<sup>th</sup> 2008 as presented. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

## Bills and Receipts

The clerk presented the following bills for payment:

<b>Waldron &amp; Associates</b>	Inspection thru 1/31/08	<b>\$727.60</b>
<b>Otte Excavating</b>	Services thru 1/31/08	<b>\$3,734.00</b>
<b>Dakota Electric Association</b>	Electric Town Hall	<b>\$128.25</b>
<b>Frontier Communications</b>	Phone service Town Hall	<b>\$124.89</b>
<b>Dick's Sanitation</b>	Garbage Service November	<b>\$36.39</b>
<b>Culligan</b>	Water softener rental	<b>\$23.38</b>
<b>Kennedy &amp; Graven</b>	Petter matter 1/1/07 thru 1/31/07	<b>\$1,510.58</b>
<b>Kelly &amp; Fawcett</b>	Legal Services thru 1/31/08	<b>\$1,928.75</b>
<b>North Cannon WMO</b>	Dues 2008	<b>\$1,055.89</b>
<b>Anderson Rock &amp; Lime</b>	Chips/ salt	<b>\$271.50</b>
<b>City of Farmington</b>	Fire Contract 2007	<b>\$28,186.00</b>
<b>Earl F. Anderson</b>	Signs	<b>\$125.32</b>
<b>Honey- Doers</b>	Mailbox Installation	<b>\$540.00</b>
<b>Lakeville Printing</b>	Newsletter	<b>\$240.45</b>
<b>Castle Rock Bank</b>	Loan Payment #7	<b>\$26,446.19</b>
<b>Nanett Champlain</b>	Expenses 1/1/08 to 2/6/08	<b>\$432.12</b>
<b>IRS</b>	Deposit February 2008	<b>\$485.51</b>
<b>PERA</b>	Pay period 1/1/08 to 1/31/08	<b>\$252.67</b>
<b>Nanett Champlain</b>	Pay Period 1/1/08 to 1/31/08	<b>\$1,491.07</b>
<b>Total Bills Presented</b>		<b>\$67,740.56</b>

The following receipts were deposited in January:

### • Local Permits

<b>City of Lakeville- Annex Agreement</b>	<b>\$4,801.17</b>	<b>MN Pipeline-Application Fee</b>	<b>\$125.00</b>
<b>Rick Siri-Outhay- Wat Lao CUP Review</b>	<b>\$15.00</b>	<b>Michael Thompson Ext. - #08-01</b>	<b>\$998.36</b>
<b>Michael Thompson Exteriors- App. Fee</b>	<b>\$25.00</b>	<b>Glory to Glory Church- CUP Appl.</b>	<b>\$400.00</b>

### • Other Receipts

<b>Brian Budenski-Affidavit of Candidacy</b>	<b>\$2.00</b>	<b>Castle Rock Bank- Interest CD</b>	<b>\$368.01</b>
<b>Tim Kuntz -Copies</b>	<b>\$8.00</b>	<b>Castle Rock Bank- Interest CD</b>	<b>\$590.50</b>
<b>Carrie Jennings- Affidavit of Candidacy</b>	<b>\$2.00</b>	<b>Dakota County-2<sup>nd</sup> Half Tax dist.</b>	<b>\$9,123.95</b>
<b>Alberta Gelineau- Affidavit of Candidacy</b>	<b>\$2.00</b>	<b>Karin Grossman-Newsletter Ad</b>	<b>\$35.00</b>
<b>LGA-Return unspent funds</b>	<b>\$272.81</b>	<b>Martin &amp; Associates- Newsletter Ad</b>	<b>\$35.00</b>
<b>Castle Rock Bank- Interest CD</b>	<b>\$349.57</b>	<b>Wayne Hallcock- RASP Sign</b>	<b>\$14.35</b>

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**TOTAL RECEIPTS DEPOSITED IN JANUARY 2008**

**\$17,167.72**

A motion by Supervisor Gloria Belzer: to approve the bills and receipts as presented for January 2008. Motion seconded by Supervisor Brian Budenski. Role call vote was taken on the motion. Supervisor Gloria Belzer- Aye, Supervisor Brian Budenski- Aye, Supervisor Cory Behrendt- Aye. Motion carried by unanimous vote.

## **Budget**

The Town Board reviewed the budget.

## **Road Contractor Time**

The Town Board discussed various road issues including icy road conditions and drifting issues. The road contractor has obtained almost all of the permission slips needed for trimming trees.

## **Other Business**

### **A. Dave Metzger**

Dave Metzger, 5853 235<sup>th</sup> St W. applied for a building permit July 12, 2004. The Town Board approved the permit. Mr. Metzger never picked up or paid for the permit. A bill was sent to Mr. Metzger for the plan review. Mr. Metzger stated that the Building Inspector, Bob Hegner never received the building plans for the building, thus no plan review could have been done. Mr. Metzger also stated discernment for the building inspector's performance which led him not to build the garage. The night of the July 12, 2004 Town Board meeting, Mr. Metzger told the building inspector he was not going to move forward with construction of the building. The clerk could not locate a plan review and the building inspector did not turn over a file for Mr. Metzger. There is no evidence of a plan review. Mr. Hegner billed the Township for the plan review December 2007. He was paid the review fee on December 10, 2007.

A motion by Supervisor Cory Behrendt: To waive the requirement for the plan review fee as sent to Dave and Kelly Metzger. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

The Town Board will bring to the table discussion of the plan review fee payment to Mr. Hegner during misc. updates.

### **B. Township Attorney 7:30 pm**

**Lakeville Annexation request-** The City of Lakeville has indicated an interest in reopening previous discussions on the annexation of Hat Trick properties. The last correspondence with Lakeville was in January 2006. Township Attorney Mr. Kelly discussed negotiation points outlined in the annexation request.

The Township is interested in talking to Hat Trick regarding their plans. The Township is currently amending the Comp plan. A commercial zone could be created. Will the developed area need public sewer and water?

The Township discussed the next step if Hat Trick is not interested in staying in the Township. The Township is interested in moving forward with an orderly annexation. Points of discussion: Annexed acres would be 60 acres. For building permit fees, payment would be made as development takes place. The general trend is 50% of the fee upon application of a building permit. Lakeville cannot annex any more property until the annexed property is 80% developed. No annexation for 8 or 10 years without going through a process of opening it up to negotiation. Sunset provision - if there is no development within 5 years the property goes back to the Township. The engineer issue is reasonable.

Mr. Kelly will use the January 2006 letter for format to respond to Lakeville. He will contact the Regan's. If they are willing to talk to the Town Board, they will be invited to attend a Town Board meeting.

***Krapu dog kennel enforcement issue-*** Trevor Oliver, a Township attorney, addressed this issue. A civil process will be followed to bring the property into compliance with the 17 conditions set in the Conditional Use Permit. The Krapu's will be served and enforcement action taken to the civil courts if there is no immediate compliance. The attorney will ask for a temporary restraining order for activities to cease if the property is not brought into compliance. The Krapu's will be asked to post a Letter of Credit for the vegetative screening. The security must be posted by February 29<sup>th</sup>, 2008. The security posting will allow for a later deadline in the Spring that is more reasonable to planting. If the deadline is not met, the Township could execute on the Letter of Credit and hire a landscaper to plant the screening required by the Conditional Use Permit. The attorney felt that the Township should focus on obvious conditions that can be viewed from a distance. Issues that need to be addressed by entering the property or obtaining an administrative warrant should be addressed after the obvious issues.

The building inspector turned over the inspection file for the dog kennel. The building inspector issued an Occupancy Permit for the building on December 21, 2007. The building inspector's folder does not include a septic as-built. In reviewing the folder, there are no indications that conditions were met inside the building such as insulation, acoustic ceiling tiles, walls dividing kennels, etc. Dog feces were to be bagged and placed in an enclosed dumpster. There is no visible enclosed dumpster onsite.

***Terri Petter- exotic animals***

The attorney is giving Mr. Duffy some time to talk to Terri Petter to arrange a time for a voluntary walk through of the property. There is an overlap on animals kept on the property between fur bearing animals and exotic animals. The attorney is trying to take a logical and reasonable approach to entering the property. Not the government coming in and invading the rights. Contact has been made with Ms. Petter's attorney. No response has been received. To obtain an administrative warrant you need to document that you have been waiting for a response. If no response is received by first part of March, then an administrative warrant will be obtained to enter the property to inventory the animals.

***Friedges complaint***

The attorney has questions for Mr. Duffy. Are there one or two businesses operating on the premises? The Town Board asked that the business ratchet back to the level of operations documented in 2004. The attorney felt that we could at least go back to the last thing the Board approved- the construction of the new building. The building was approved as an alteration, not an expansion of the use. The path for bringing the property into compliance needs to be laid out. If the deadline passes and conformity is not achieved, the Township will need to proceed with legal action.

***Minnesota Pipeline Company vs. Oren A. Larson***

Attorneys Fredrickson & Bryon are asking the Township if they are interested in signing a disclaimer, disclaiming interests in the condemnation of eight parcels. The Township is named a respondent by virtue of its interest in Township roadway easements and/or Metropolitan Ag. Preserve easement associated with the subject parcels. Attorney Patrick Kelly will check with Fredrickson & Bryon on specifics of the disclaimer before the Township signs the document.

***Peterson resolution review***

Still on the table

**Mine CUP Reviews**

***1. Storlie Mine***

The Storlie Gravel Pit located at 23449 Dodd Blvd, Lakeville presented its Annual Review of Pre-Existing Mineral Extraction Facility to the Town Board. John Storlie was present to represent the Storlie Mine.

Chair Cory Behrendt opened the floor to public comment. He called for public comments three times. Hearing no public comments, the public portion of the meeting was closed. The total amount of material removed in 2007 was 79,998 cubic yards. The Review Fee of \$479.99 for Pre- Existing Non Conforming Use Mineral Extraction Facility was received. The review for the Storlie Pit was complete.

## ***2. Eureka Sand and Gravel***

Eureka Sand and Gravel, 10500 235<sup>th</sup> St W., Lakeville presented its Annual review of Pre-Existing Mineral Extraction Facility. Eureka Sand and Gravel operates the Madden Mine and the Windmill site. Chair Cory Behrendt opened the floor to public comment. He called for public comments three times. Hearing no public comments, the public portion of the meeting was closed. The total amount of material removed in 2007 was 106,835.68 cubic yards. The Review Fee of \$641.01 for Pre- Existing Non Conforming Use Mineral Extraction Facility was received. The review for Eureka Sand and Gravel was completed.

Mr. Miller will be asked about the Windmill mine financial guarantee when he arrives at the meeting.

The Letter of Credit that Mr. Miller presented to the Town Board on December 10, 2007 is an irrevocable Letter of Credit. Mr. Miller is exploring the possibility of bonding, which in the long run would be a cost benefit to him. The Town Board felt that the Letter of Credit satisfies the bonding requirement.

Mr. Miller expressed concerns that the Township does not receive copies of reports required by the DNR, MPCA, Stormwater permits, PCA, etc. They are based on postal address. The reports go to Lakeville or Farmington, not to the Township.

The clerk will e-mail MAT about governing bodies not receiving copies of permits.

## ***3. Tiller Crop/ Barton Sand and Gravel***

Barton Sand and Gravel, 10005 235<sup>th</sup> St W. Lakeville presented its Annual review of Pre-Existing Mineral Extraction Facility. Chair Cory Behrendt opened the floor to public comment. Carrie Jennings commented that Barton Sand and Gravel stated that they did not have any complaints during the 2007 mining season. Did they receive any complaints during the non-mining season? Chair Cory Behrendt commented that no complaints have been received. He called for public comments three times. Hearing no public comments, the public portion of the meeting was closed. No materials were removed from the pit in 2007. Tiller Corporation has not submitted the annual review fee of \$150.00.

## **C. Planning Commission Update- Chair Mike Greco**

### ***1. Glory to Glory Church CUP***

The Planning Commission asked that the attorney be present at the public hearing. The Planning Commission questioned whether the building plans should be presented at this time. Supervisor Cory Behrendt spoke with the Township attorney on this item. The building plans are not required for the CUP approval.

### ***2. Hat Trick Annexation***

The Planning Commission recommended engaging TDKA in this issue. The Town Board felt that it is good advice to get TDKA involved. They will wait to contact TKDA regarding this issued after discussion with Hat Trick Investment to determine what direction the annexation is taking.

### **3. *Building Inspector***

The Planning Commission met with the new building inspector. It is unsure how to close out old building permits. The Planning Commission recommended that Bob Hegner be told that he is done and all files should be turned over to the new inspector.

The Town Board discussed how to move forward on the open permits. The clerk was asked to put dollar amounts on the open permits. The Town Board asked that the files be turned over to the Township.

***Orie and Samantha Sexton Building Permit***- The Sexton's have not paid for their building permit that was approved on June 11, 2007. A letter was sent on January 31, 2008 to Sexton's asking for payment of the plan review fee. Bob Hegner billed the Township for the plan review in December 2007. Mr. Hegner was paid \$2,101.94 for the plan review on December 10, 2007. Orie and Samantha Sexton sent a letter to the Town Board in response to the Township's letter. *See attached letter dated February 7, 2008.*

The Town Board discussed if the plan review fee could be paid at the Planning Commission, before the plans are sent to the building inspector. The Planning Commission was asked to contact the building inspector to discuss the payment of plan review fees.

Supervisor Cory Behrendt will ask Mr. Kelly what the options are for reclaiming money paid out to the building inspector for services not performed.

### **4. *Ordinance Update***

- a. Additional items needed from the attorney: peddler ordinance
- b. Approval to schedule extra meetings- Planning Commission is given the commission to do planning activities. If they find it necessary to hold meetings to carry out those activities, they should do it at their discretion.

### **5. *Website***

Planning Commission member, Ken Olstad, will help with the maintenance of the website once Mike Greco leaves the Planning Commission.

### **6. *Annual Meeting presentation***

Comp Plan process, ordinance updates and building Inspector- keep it brief. A handout will be available with a more in-depth explanation.

## **D. NCRWMO Plan Adoption Resolution**

Supervisor Jeff Otto sent Dean Johnson, of Resource Strategies, a copy of Resolution No. 46 adopted June 12, 2006. Dean Johnson felt that the resolution he provided to the Town Board needed to be signed to adopt the NCRWMO Plan.

A motion by Supervisor Cory Behrendt: To adopt Resolution No. 65 as presented "A Resolution adopting the North Cannon Watershed Management Organization Watershed Management Plan as the Local Watershed Management Plan in the North Cannon River Watershed." Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

## **E. Lawn Mowing- Town Hall**

The clerk has received two quotes for mowing the Town Hall property for 2008. Supervisor Brian Budenski will contact the current lawn service and ask for a quote. This item will be tabled for the March Town Board Meeting.

#### **F. Annual Meeting Presentation**

The Annual Meeting presentation was discussed. The Town Board Supervisors were assigned topics.

Audience members commented that it is very hard to hear the Township business discussed at meetings. It is a public meeting and the public should be able to hear.

#### **G. Appoint Election Judges**

The Clerk asked that the following persons be appointed as election judges: Cheryl Schindeldecker, Earl Schindeldecker, Marlene Swantek, Carolyn Papke, Barb Bachman and Julie Pflaum.

A motion by Supervisor Cory Behrendt: To approve the presented election judges for the March election. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

#### **Old Business**

##### **A. Exotic Animals- Terri Petter**

Already addressed

##### **B. Krapu Kennel**

Already addressed

##### **C. CapX2020 Project**

Discovery is happening. The citizen group needs to decide if it is going to become an intervening party.

##### **D. Annexation- Hat Trick**

Already Addressed

##### **E. Misc. Updates**

**CEEF Group-** The group includes representatives from Castle Rock, Empire, Eureka and Farmington. They organize events that bring the community together. Bernadette Woods represented Eureka and has resigned recently. The group is looking for a liaison from Eureka Township to attend their quarterly meeting. If no person from Eureka steps forward before the next newsletter is published, it will be placed in the newsletter.

**Eureka Township Land Use Map Update-** Jeff Otto has updated the Eureka Township and Use Map. The Town Board did not have any changes to the map presented. The map will be sent to Dean Johnson, Resource Strategies. Dean is managing the framework for the Comp Plan update. He asked for the updated map.

##### **F. 245<sup>th</sup> St. Reconstruction**

The Town Board discussed the possibility of the reconstruction of 245<sup>th</sup> St. in the placement of the interceptor line. Supervisor Gloria Belzer had a discussion with Robert O'Connell of Bonestroo, Rosene, Anderlik & Associates regarding the reconstruction of 245<sup>th</sup> St. At the September 6, 2005, roundtable meeting, Robert O'Connell and Bryce Pickert of MET Council were present. Ray Kaufenberg asked Mr. Pickert if the 245<sup>th</sup> street route was used, would it be possible to blacktop 245<sup>th</sup> as a part of their reconstruction. Mr. Pickert indicated that it would be a possibility. Gloria had a conversation with Mr. O'Connell indicating that the Township is very much interested in having 245<sup>th</sup> St reconstructed with

blacktop. Mr. O'Connell commented that even though the budget had been set, that it was not too late to request reconstruction of 245<sup>th</sup> St by the Met Council.

A motion by Supervisor Cory Behrendt: To approve Supervisor Gloria Belzer and Supervisor Jeff Otto to pursue the paving of 245<sup>th</sup> St with the Met Council and Bonestroo, Rosene, Anderlik & Associates. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

### **G. Public Input Data Practice**

Supervisor Cory Behrendt reviewed the document presented to the Town Board by Mr. Kelly. The materials presented were already in the Township document. The only changes made to the Township document was Attachment A "Fees for Providing Copies of Public Data".

A motion by Supervisor Cory Behrendt: To adopt attachment A with changes provided. Motion seconded by Supervisor Gloria Belzer. Motion carried by unanimous vote.

### **New Business**

#### **A. MinnCan**

Previously addressed

#### **B. Minnesota Flag**

The clerk reported that a new Minnesota Flag needs to be purchased. The current flag was purchased the end of October for \$32.89. A motion by Supervisor Cory Behrendt: To approve the purchase of an additional Minnesota Flag. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

### **Clerk/ Treasurer Presentation**

Sexton Building Permit- The clerk asked for clarification on the decision of the Town Board on payment of the plan review fee on the Sexton building permit. The Town Board is working through the problems with the issuance and payment of old building permits. The Town Board understands their situation, but feel the Sextons should not be released from their responsibility. The Town Board will allow a 30 day break while the Town Board considers their options with the building inspector. If the Township is able to recover some of the cost, it will be passed on.

As part of the payment to Bob Hegner in December for outstanding plan review fee, the Township paid out \$422.99 for a plan review to Samon Homes. The clerk reviewed the file on the permit. There is no application form, no address, no applicant name and no plans that were reviewed. The clerk was directed to send a letter to Mr. Hegner and Dave Metzger regarding this permit. Mr. Hegner will be allowed 30 days to respond or the matter will be turned over to the attorney. The clerk was also asked to put together a list of outstanding septic as-builts. Supervisor Cory Behrendt will review the letter before it is sent.

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

Meeting adjourned at 10:32 pm.