

Eureka Township

Dakota County

State of Minnesota

Eureka Town Board Meeting
October 14, 2008

Call to Order

Chair Jeff Otto called the meeting to order at 7:00 pm. Members present were Supervisors Cory Behrendt, Brian Budenski, Jeff Otto, Carrie Jennings, Dan Rogers and Clerk/Treasurer Nanett Sandstrom, to record the minutes. Township Attorney Patrick Kelly.

The meeting opened with the Pledge of Allegiance

Approval of Agenda

The following additions were made to the agenda:

Other Business: C. Newsletter

Supervisor Carrie Jennings is waiting for an update from Ron Quanbeck, TKDA on the Sauber Mine. Without this report, there is no new information to present. Rita Poppitz commented that they had not received a copy of the survey. Mr. Miller was present and commented that his attorney assured him a copy had been sent a month or so ago. He will contact his attorney and make sure another copy of the survey is sent.

A motion by Supervisor Jeff Otto: To approve the agenda as modified. Motion seconded by Supervisor Cory Behrendt. Motion carried by unanimous vote.

Audience Comment Period

There were no public comments.

Minutes

The following corrections were made to the September 8, 2008 Town Board Meeting Minutes: Page 1- Audience Comment Period, last paragraph add: "Mr. Brosseth and Mr. Mason were asked if this was a correct statement. They assured the Board that it was." Page 5- Tom Berry's title was added: "Dakota County Soil and Water Conservation District". Page 8- Friedges, second to last sentence add: "offered to him". Terri Petter should be Item "3." not "2". Page 9- last sentence change "Civic" cats to "Civet". Page 10- Windmill Gravel Pit- change "IT and "fal" to "It" and "fall. Middle of page add title of paragraph: "**Other Business- Item B. Second Soil Compliance Inspector- revisited**"

A motion by Supervisor Dan Rogers: To approve the Town Board Meeting Minutes of September 8, 2008 as amended. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

The following addition was made to the September 18, 2008 Special Meeting Minutes: Page 3- add the word "**Proposed**" before **Country Stone Meeting**. (The meeting was not held on this date.)

A motion by Supervisor Carrie Jennings: To approve the Special Meeting Minutes of September 18, 2008 as amended. Motion seconded by Supervisor Jeff Otto. Motion carried by unanimous vote of Supervisors voting. Supervisor Dan Rogers abstained from voting on the motion, he was not present at the meeting.

Treasurer Report

Checking Account Balance \$1,571.12. Savings Account Balance \$92,811.43. CD Account Balances \$160,952.00. Total Account Balance \$255,334.55

A motion by Supervisor Cory Behrendt: To approve the Treasurer’s Report of October 14, 2008 as presented. Motion seconded by Supervisor Carrie Jennings. Motion carried by unanimous vote.

Bills and Receipts

The clerk presented the following bills for payment:

Otte Excavating	Services thru 9/30/08	\$7,956.00
Otte Excavating	Chub Lake Project	\$1,600.00
MNSPECT	Inspection Services thru 9/30/08	\$4,168.29
Dakota Electric	Town Hall	\$66.83
Frontier Communications	Phone service Town Hall	\$124.58
Culligan	Water softener rental	\$23.43
Dick’s Sanitation	Garbage Service July	\$39.28
Dubbels Lawn Service	Mowing thru September 2008	\$300.00
TDKA	Consultant Service- COMP Plan	\$1,167.36
TDKA	Transmit Invoice	\$12.85
Kelly & Lemmons	Legal Services thru 9/30/08	\$3,993.50
Dustcoating	Application 9/5/08	\$6,156.00
ECM Publishers	Legal Ads	\$175.00
MN Dept of Labor	State Surcharge 3 rd Qtr	\$142.44
Georgie Molitor	Newsletter seals	\$14.49
Cheryl Schindeldecker	Election Judge Expense	\$198.19
Mike Greco	Election Judge Expense	\$133.35
Marlene Swantek	Election Judge Expense	\$130.53
Elaine Swedin	Election Judge Expense	\$91.54
Pat Fossum	Election Judge Expense	\$118.16
Jody Arman Jones	Election Judge Expense	\$105.82
Mary Ann Michels	Election Judge Expense	\$131.70
Gloria Belzer	Election Judge Expense	\$85.53
Earl Schindeldecker	Election Judge Expense	\$120.69
James Cooper	Election Judge Expense	\$36.70
Cynthia Hansen	Election Judge Expense	\$36.12
Dale Kuchinka	Mowing Ditches- July & Oct	\$2,772.00
Nanett Sandstrom	Expenses 9/5/08 to 9/30/08	\$288.37
IRS	Deposit October 2008	\$620.71
PERA	Pay period 9/1/08 to 9/30/08	\$310.15

Kelly Brosseth	Escrow Refund	\$2,843.78
State of MN	3 rd Qtr Withholding	\$301.45
Dakota County Treasurer	3 rd Qtr Septic	\$280.00
USPS	Newsletter- on account	\$250.00
Nanett Champlain	Pay Period 9/1/08 to 9/30/08	<u>\$1,799.83</u>
Total Bills Presented		\$36,594.67

The following receipts were deposited in September:

- **Local Permits**

Conboy Excavating- Septic Hozerland	\$280.00	College Remod.-Estrem permit	\$616.29
Jill Woehrle- Building Permit	\$1,308.73	Hozerland- Permit 08-31	\$1,611.53
Tom Conroy- Ag permit	\$25.00	Bohn Well Drilling- Septic Glory	\$280.00
Mike Giles- Ag permit	\$25.00	R. Schweitzer- Appl. Fee Riegel	\$25.00
MC Contracting - Septic Kuntz	\$280.00	Dakota Electric- Utility Permit	\$25.00
Todd Auge- Building Permit	\$253.52	Sauber Plumbing- Septic Storlie	\$280.00
Todd Auge- Appl. fee	\$25.00	Dakota Electric- Utility Permit	\$25.00
D. Schweich- Windschtl permit	\$1,952.38		

- **Other Receipts**

Thomas Eckness-RASP Sign	\$15.66	Castle Rock Bank- Interest CD	\$387.32
Marty Schuhwerck- Extra Chloride	\$175.00	Castle Rock Bank- Interest CD	\$353.44
Swedin Chiropractic- Newsletter Ad	\$125.00	Castle Rock Bank- Interest Savings	\$1,566.17
Ackerman Furniture- Newsletter Ad	\$125.00		

TOTAL RECEIPTS DEPOSITED IN SEPTEMBER 2008 **\$9,760.04**

The bill submitted by Otto Excavating on the Chub Lake project represents half of the cost of the project. The balance, approximately \$1,800 is being paid directly by the Department of Natural Resources.

A motion by Supervisor Carrie Jennings: to approve the claims list as presented. Motion seconded by Supervisor Jeff Otto. Role call vote was taken on the motion. Supervisor Carrie Jennings- Aye, Supervisor Brian Budenski- Aye, Supervisor Jeff Otto- Aye, Supervisor Cory Behrendt- Aye and Supervisor Dan Rogers - Aye. Motion carried by unanimous vote.

The Cash Control Statement, Current Investments, Statement of Receipts, Disbursements and Balances, Disbursement Register, Receipts Register were reviewed by the Town Board.

Supervisor Cory Behrendt asked that if Supervisor Jeff Otto is going to assume the responsibility of attorney contact, then he will need to check the billing statement. It is the attorney contacts responsibility to inform the Town Board if the attorney will be present at the meeting, and to inform the board if you are engaging in other issues. There has been a breakdown in communications.

Supervisor Jeff Otto apologized for breakdown in communication. There is a three way communication. There were some urgent things that needed to be dealt with.

Approximately \$1,300 of the attorney bill this month is for costs that will be recovered by escrow accounts.

Budget

The monthly budget was not prepared by the clerk for this meeting.

Contractor Time

Chub Lake Landing Project is complete. The DNR will pay their portion of the project directly to the vendors. The DNR will reset the water level gauge.

The gas pipeline project on 225th Street is complete east of Cedar Ave. They have left the road in good condition.

The brush at 240th Street and Highview has not been sprayed. The road contractors are working with Dakota County Soil and Water on treatment of the brush. The brush will be cut back and chemical application put off till next year.

Spot graveling of roads is completed.

On 225th St near Denmark there are some trees that are overhanging the road. These will be inspected during road inspection.

Snow plowing Town Hall parking lot and side walk- The clerk had been approached by a couple of contractors about snow removal at the Town hall. The Road Contractor and the Town Board were in agreement that the Road Contractor will continue the snow removal at the Town hall for this season.

Planning Commission, land use permits and related items

A. Land & Use Zoning Issues

B. Ag Preserve

Pat and Dawn Devney presented the Town Board with an application to place property they own in Section 24 into Ag. Preserve.

A motion by Supervisor Cory Behrendt: To approve the Ag Preserve application by Mr. Devney as presented. Motion seconded by Supervisor Dan Rogers. Motion carried by unanimous vote.

Michael and Nanette Northrup presented the Town Board with an application to place property they own in Section 11 and 14 into Ag. Preserve.

A motion by Supervisor Cory Behrendt: To approve the Ag. Preserve application by Mr. Northrup as presented. Motion carried by unanimous vote.

C. Ordinance Updates- roads

Supervisor Jeff Otto asked for Board consideration to ask the Planning Commission, as part of their Ordinance update to include an Ordinance dealing with road haulage. The Road Haulage Agreement and permitting process would be applied to outside entities, such as a major pipeline construction project. Such a project would put heavy hauling onto Township roads. This is a concept that has been put into place in Castle Rock Township. It has been very effective in recovering and enhancing roads. The concept is that it brings the road up to a 9 ton limit prior to the commencement of the project. Any subsequent damage or follow up repairs are part of the permitting process. The current Township mining ordinance has language for hauling and upgrading to a 9 ton gravel road. There is also language for dust coating. This language could be put together to cover major projects by outside entities.

A motion by Supervisor Jeff Otto: To make a request to the Planning Commission to draft an Ordinance to be put into place on road haulage. Motion seconded by Supervisor Carrie Jennings. Supervisor Cory Behrendt commented that if this is easily fit into the ordinance to move ahead, it should not hold up the updating process. Motion carried by unanimous vote.

D. Apron Project

This was a concept that was presented at the annual meeting. The Board was told to move forward with a preliminary study on costs. The proposal is 150 feet of paving on gravel roads adjacent to blacktop roads. TKDA would be engaged to put together engineering around this concept to get a realistic cost on the project. Soil borings would be required for gravel depths to support blacktopping. Estimated cost is \$5,000- \$7,000 for engineering. Information obtained would be presented at the next annual meeting. The estimated cost per apron is \$25,000.

Benefits of an apron include less maintenance to roadway near intersections (starting, stopping and turning stresses the roadway and requires additional maintenance.), safety (snow and ice clears from blacktop surface quicker than gravel roads for safer stopping and quicker acceleration onto blacktop roadway.)

A motion by Supervisor Jeff Otto: To move forward the study with estimated cost of \$7,000 out of the current budget as encouraged by the citizens at the Town meeting. Motion seconded by Supervisor Brian Budenski. Discussion on the motion followed. Are there other resources to get an estimate, such as a contractor or the county? The county should have an idea on costs, lengths, etc. The costs will be based on the soil borings. Supervisor Jeff Otto withdrew his motion, Supervisor Brian Budenski accepted. Supervisor Jeff Otto will explore other avenues before engaging TKDA in a study.

Citizen Business

A. Sauber mine

No update- *see statement above in Approval of the Agenda*

Other Business

A. Storlie Pit- Possible CUP Violations

1. Supervisor Carrie Jennings met with Ron Quanbeck, TDKA to review the Sauber Pit and the Kelly Brosseth expansion EAW. While onsite at the Brosseth location they witnessed workers priming a track hoe in the Storlie Pit. There was considerable overspray onto the pit floor and open water. Ron suggested that this was not in the scope of the CUP. Carrie spoke with the painters. They were working for Ryan Construction. The workers ceased working and went home. At a later date the piece of equipment was painted and moved to a different location onsite. This activity violates the terms of the CUP.

A citizen commented on this same issue at the October 6th Planning Commission meeting. Photos were given to the clerk showing the painting of the equipment in the Storlie pit.

2. Screening complaint from the previous Town Board meeting: Materials being screened in the Storlie Pit were materials removed from the Brosseth Pit. John Storlie's CUP allows mining, washing and the hauling of gravel that is mined only from his own pit. Screening materials from a neighboring pit is a violation of his CUP. If materials being hauled from the Storlie pit on a Saturday that originated in the neighboring pit is also a violation of his CUP.

When this was brought to Mr. Brosseth attention on that Friday, he did address this issue immediately. The screening operation was moved on Monday to his property.

Supervisor Carrie Jennings will draft a letter to Mr. Storlie and review with Supervisor Jeff Otto. He will be notified of the CUP violation on the property and asked to attend the next Town Board meeting to be given the opportunity to address the complaint.

B. Planning Commission Update

1. Chair Sharon Buckley sent the Planning Commission's recommendation to the Comp Plan for their review prior to tonight's meeting. The Planning Commission is recommending that the Town Board proceed with the studies of the commercial/ industrial and additional housing rights without waiting for approval of the Comp Plan by the MET Council and that these two areas be highlighted in a cover letter to the MET Council with the Comp Plan to draw attention to our interest to proceed with those studies and implementation. Details from the CAC should be included in this letter.
2. When minutes are approved and later are found to be incorrect, what is the proper procedure to correct these minutes? Is there a mechanism to annotate the meeting minutes?
Attorney response: At the next meeting make a motion for reconsideration. The motion for reconsideration is moved by the party that was successful in its previous motion. The motion of reconsideration would be to consider the minutes again. Once this passes there is discussion to correct the minutes. A separate motion is made to correct the minutes. It is important that the record is clear.
3. Do we have a response from MAT on legality of additional housing rights? *Supervisor Jeff Otto commented that the response has been given to Planning Commissioner Nancy Sauber.*
4. Have we received the last of the files from the previous building inspector? *The clerk has not received any additional files from the previous building inspector. The attorney had previous contact with Mr. Hegner on the files. He was asked to contact Mr. Hegner again.*
5. The Planning Commission asked to budget in January for someone to do the Planning Commission minutes other than a member of the Planning Commission. *This will be addressed at the budget meeting.*
6. Rural Collaborative Water Plan- Planning Commission is suggesting a Special Meeting with Town Board and Sherri and Berry from TKDA to help explain the plan. *This item will be discussed later in the agenda.*
7. The Planning Commission discussed the DNR Waters Permit, they have no comments.
8. The Planning Commission discussed the Uniform Street Naming and Addressing System. They decided they need more information before making a recommendation.
9. Suggested training opportunity: Conference Creating Successful Meeting- November 5, 2008, 4-5 pm. This is an online and telephone presentation. The cost is \$150. All interested persons could attend this course at this cost. *The Town Board discussed the value of the training session. A motion by Supervisor Cory Behrendt: To pass on this training opportunity and to look for something that might be more applicable to Townships or review it in more detail on*

the benefits specific to Township. Motion seconded by Supervisor Dan Rogers. Motion carried with one dissenting vote.

10. The Professional Engagement Policy was received. The Planning Commission will review the policy at their next meeting and make a recommendation at that time.

C. Newsletter

A copy of the newsletter draft was sent to the Town Board prior to the meeting. Suggested changes to the newsletter were discussed. The following Supervisors will submit information to the editor: Cory Behrendt- Comp Plan, Jeff Otto-road information. Brian Budenski – MinnCan & Interceptor.

At 8:50 pm the Town took a five minute break.

Old Business

A. Attorney Updates

1. Friedges-Supervisor Brian Budenski and Supervisor Jeff Otto have had some discussion with Ron Bjustrom of Country Stone. They have asked for some time to gather materials and to review documents the Township has provided. Mr. Bjustrom thought that they would be ready for another meeting in about a week to continue the dialog. Township Attorney Trevor Oliver is aware of the meetings. Friedges Attorney Mr. Duffy has received materials also and is not ready to talk tonight. Residents involved in this complaint have been contacted and updated on the progress.

B. Misc. Updates

1. Prairie Creek School

The Planning Commission did not make a recommendation on the CUP at their October Meeting. The Township Engineer had sent a memo to the Planning Commission on areas that needed to be addressed before issuing the CUP. Prairie Creek has not received the memo and was unable to act on any of their items prior to the Planning Commission Meeting. The building permit application had not been received.

The applicant indicated the desire to proceed with initial site work in advance of hard winter freeze. (Excavating of footings) An Assumption of Risk Agreement would allow them to begin limited construction work- site preparation and excavating prior to CUP and Building Permit Application approval. They would assume all risk and liability for proceeding without formal Town Board approval with the full knowledge that if either permit was rejected and the project halted, they would be liable with any costs associated in stopping the project and restoring the property.

Building Inspector Scott Qualle indicated that he can subdivide the permitting and inspection process for whatever portion of work is authorized prior to formal Town approval of the overall permit.

Ron Quanbeck, TKDA Engineer sent the Town Board a memo dated October 14, 2008 addressing open items on the application. *See attached memo.*

The text of the Assumption Agreement was read. *See attached.* To proceed with the execution of this agreement Resolution No. 74 needed to be adopted.

The Town Board discussed the issuance of the permit and CUP. Scheduling a Special Meeting for issuing of the permits was discussed instead of the Assumption of Risk Agreement. A motion by Supervisor Carrie Jennings: To approve Resolution No. 74 "Regarding Prairie Creek, Inc. Assumption of Risk Agreement" as presented. Motion seconded by Supervisor Brian Budenski. Vote was taken on the motion. 3 Supervisors voted in favor of the motion, 2 opposed. Motion carried.

2. Brosseth Mine- Update EAW

Kelly Brosseth attended the EAW Meeting for his mining application. The items on the LBG (Sub consulting group hired by TKDA on groundwater) letter were discussed. Clarification of the letter will be drafted and resubmitted.

3. Zimmer Permit Update

Under the Wetland Conservation Act the Township is responsible for calling for a wetland delineation report if it is deemed appropriate. A wetland delineation report was prepared November 2006 on this property by Polaris Group. The Minnesota Wetland Conservation Act Technical Evaluation Panel found the wetland delineation report unsuitable to the overall scope of the project. This panel consisted of members of the following groups: LGU, SWCD, WSR and DNR.

The proposed location of the house is on a different part of the property than what is stated in the wetland delimitation report. For these two reasons the wetland delineation report on the Zimmer property should be updated. The Board can specify that the wetland delineation report be limited to the driveway and the area where the new house would be located.

A motion by Supervisor Jeff Otto: The Town Board formally request updating and completing a wetland delineation report on the proposed driveway and construction site area. Motion seconded by Supervisor Carrie Jennings. Motion carried by unanimous vote.

Supervisor Carrie Jennings will draft a letter to Mr. Zimmer.

4. Northrup Board Follow up

No progress

5. Cedar Ave Corridor Alignment

Supervisor Jeff Otto attended a follow up meeting with the county. They are following a mandate for mapping of future road improvements. It creates an overlay on the property preventing future development in a possible right of way for future use. Jeff has had follow up conversation with affected residents. A tentative meeting date has been set to continue discussion.

New Business

A. Approval of Comp Plan or Resolution for Extension

The Town Board worked through the draft plan dated July 31, 2008. Recommended changes from the Planning Commission were reviewed and the draft was updated accordingly.

A motion by Supervisor Cory Behrendt: To approve the Comp Plan as amended this evening for publication for feedback from surrounding communities. Motion seconded by Supervisor Brian Budenski. Motion carried by unanimous vote.

Planning Commission Member Nancy Sauber will send the updates to TKDA for the final draft of the Comp Plan. Supervisor Cory Behrendt and Supervisor Jeff Otto will compose a cover letter to be sent to the Met Council for their early review, including the studies of commercial/ industrial and additional housing rights as outlined by the CAC.

B. Rural Collaborative Water Plan

A Joint Meeting of the Planning Commission & Town Board was set for Thursday, November 6, 2008 at 7:00 pm to discuss the Rural Collaborative Water Plan.

C. Miller Annexation Petition to Lakeville

The Town Board received a copy of the petition request to the City of Lakeville from Joe Miller to have his property annexed by Lakeville.

The Township has 90 days to respond to the request. (November 14th) Supervisor Jeff Otto and Supervisor Dan Rogers will contact Mr. Miller to discuss the request.

D. Informational item on Constitutional Amendment ballot item

Clean Water and Land and Legacy Amendment will be on the November ballot. The Town Board received a mailing on this amendment. The information was received, but not discussed by the Town Board.

E. Mount Olivet Agreement- In Lieu of taxes

Mount Olivet Retreat Center offered to renew its agreement with the Township for monies in Lieu of taxes. The agreement runs for a ten year period and averages out to about a 3% increase per year.

A motion by Supervisor Cory Behrendt: To approve the agreement as proposed by Mount Olivet. Motion seconded by Supervisor Carrie Jennings. Motion carried by unanimous vote.

F. Bischel Building/ Stepka- double fee refund

Bischel attempted to obtain a building permit from the Township prior to commencing on a re-roof project for Stepka. The clerk was out of the office and the deputy clerk did not know how to issue the permit. Bischel came to office the following Monday and obtained the permit. A double fee was charged for the roofing portion of the permit. Later the clerk was contacted by Bischel and was told of the circumstances surrounding the issuing of the permit. The building inspector approved returning the double fee, since no extra work was performed on their part.

The Town Board agreed that the double fee of \$100 for the Bischel/ Stepka permit be refunded.

The Clerk discussed the retainment of the double fee by the building inspector. Currently the inspector is retaining double fees for commencing a project prior to obtaining a permit. Their agreement does not address the distribution of the double fee. The building inspector offered 75% retainment by their company with 25% to the Township. The clerk will ask that they write an amendment to the building inspector agreement.

G. MAT Annual Meeting

At the Dakota County Township Officers Annual Meeting the Clerk won the drawing for \$250 towards attending the Annual MAT Meeting November 20th-22nd in Alexandria. This amount would cover the cost of the conference and hotel room.

A motion by Supervisor Cory Behrendt: To approve covering the related costs for Nanett to attend the Township Annual Meeting in Alexandria. Motion seconded by Supervisor Carrie Jennings. Motion carried by unanimous vote.

H. Office help

The clerk requested that the Town Board consider hiring additional help in the office. She is unable to complete the work in the amount of hours that she has available. The clerk contacted Eric Hedtke, Attorney for MAT. Many townships hire office help that is not a clerk or deputy. This person would be hire by the Town Board as an employee. The clerk also referred to an Auditors Update suggested that small public entities “cross training”: training a second person in specific job duties related to entity’s finances.

The Town Board asked that the clerk put parameters on the job such as number of hours, hourly rate and list of duties. The clerk was asked to interview and propose hours and a tentative work schedule.

Clerk/ Treasurer Presentation

Updating insurance package- MAT Agency

The Clerk and Supervisor Cory Behrendt worked on an inventory list. The clerk proposed Inland Marine coverage at \$20,000 with a \$100 deductible, Personal Property coverage at \$30,000 with a \$250 deductible. The Town hall coverage is for \$300,000. The premium is due November 1st. The Town Board was in agreement the coverage amounts proposed by the clerk.

A motion by Supervisor Cory Behrendt: to adjourn. Motion seconded by Supervisor Brian Budenski.

Meeting adjourned at 11:39 pm.