

Eureka Township

Dakota County

State of Minnesota

Eureka Town board Meeting
February 13, 2006

Call to Order

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

The meeting opened with the Pledge of Allegiance.

Approval of Agenda

The following change was made to the agenda: Item 4. Correction to the bills: December 2005 bills for January 2006 Meeting. A motion by Supervisor Dan Rogers: To approve the agenda with correction noted. Motion seconded by Supervisor Cheryl Monson. Motion carried.

Audience Comment Period

There were no audience comments at this time.

Correction to December 2005 Bills for January 2006 Meeting

The Edward Kramer Invoice was for \$220.22, the approved amount. The statement sent was for \$220.76, it included an outstanding balance of .54. The clerk manually adjusted and initialed the check to reflect the statement balance. Supervisor Mark Malecha: Approved the correction to the bills. Motion seconded by Supervisor Gloria Belzer. Motion carried.

Minutes

The following change was made to the January 9, 2006 Town Board Meeting Minutes: Page 1, add: "Item" for Item B- Supervisor Gloria Belzer's motion on approval of the agenda. Page 4- Eureka Estates- change two supervisors to "Supervisors Dan Rogers and Cheryl Monson." A motion by Supervisor Cheryl Monson: to approve the minutes as amended. Motion seconded by Supervisor Mark Malecha. Motion carried.

The following changes were made to the January 18, 2006 Special Meeting Minutes: Page 3- Butch Hansen, "Friedges representative". Page 5- Correct spelling to "Georgie"

A motion by Supervisor Gloria Belzer: To approve the January 18, 2006 Special Meeting Minutes as amended. Motion seconded by Supervisor Dan Rogers. Motion carried.

Treasurer's Report

Treasurer Nanett Champlain reported that there is \$146.03 in checking, \$169,321.24 in the savings account and \$142,704.10 in CD investments. Federal tax liabilities are \$465.35, MN tax liabilities are \$75.57. Overall total of accounts are \$311,630.45.

Motion by Supervisor Dan Rogers: To approve the treasurer report as presented. Motion seconded by Supervisor Cheryl Monson. The motion carried.

Bills and Receipts

The clerk explained that Claim No. 246- Commercial Partners for \$1,117.50 was for Title Insurance for the new tow hall. This is required by the bank to close the loan. Castle Rock Bank

was finalizing the loan and found that the title insurance invoice had not been paid. The clerk requested and received a new statement from Commercial Partners, apparently the original statement was sent to the township attorney office of Murnane, Conlin and Brandt.

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

BeSure Inspection Services	January Inspection Services	\$6,550.07
Farm Road Services	Road maintenance for January 2005	\$2,920.00
Dakota Electric	Electric Town Hall	\$68.01
Frontier Communications	952-469-3736	\$113.21
Culligan	Water Softener Rental	\$23.38
Pat Fossum	Cleaning Town Hall January 2005	\$60.03
Nanett Champlain	Payroll 01/01/06 to 01/31/06	\$1,800.09
Nanett Champlain	Expenses 01/01/06 thru 01/31/06	\$429.45
Dakota County Treasurer	Salt and Sand	\$792.00
City of Farmington	Fire Contract 2005	\$17,080.00
Mary Ann Michels	Payroll 01/01/06 to 01/31/06	\$138.52
Mary Ann Michels	Expenses 01/01/06 thru 01/31/06	\$5.82
Lakeville Printing	Newsletter Expense	\$85.70
Alf Ambulance	Service 07/01/05 thru 12/31/05	\$1,500.00
Malecha Trucking	Gravel-267th Street Repair	\$171.39
PERA	Payroll 01/01/06 thru 01/31/06	\$275.00
Commercial Partners	Title Ins- New Town Hall	\$1,117.50
TOTAL BILLS PRESENTED		\$33,130.17

A motion by Supervisor Cheryl Monson: To approve bills as presented. Motion seconded by Supervisor Mark Malecha. Motion carried.

The following receipts were deposited in January:

• **Building Permits**

Air Masters-HVAC permit	\$90.00	Richard Martin- Permit 06-01-001	\$422.06
Fireside Hearth and Home- HVAC permit	\$120.00	Richard Martin- application fee	\$25.00
Fireside Hearth and Home- HVAC permit	\$60.00	Friedges Landscape- permit # 05-11-029	\$10,134.44

• **Other Receipts**

Butch Hansen- Affidavit of Candidacy	\$2.00	Dan Rogers- Affidavit of Candidacy	\$2.00
Cory Behrendt- Affidavit of Candidacy	\$2.00	Butch Hansen- Affidavit of Candidacy	\$2.00
Gary Smith-Affidavit of Candidacy	\$2.00	RASP Signs- 7 signs	\$82.15
Amy Nielsen- Affidavit of Candidacy	\$2.00	Dakota County- Current Tax	\$10,442.11

TOTAL RECEIPTS DEPOSITED IN JANUARY **\$21,387.76**

A motion by Supervisor Gloria Belzer: To accept the receipts as presented. Motion seconded by Supervisor Dan Rogers. Motion Carried.

Budget

No Budget available for tonight's meeting.

Planning Commission

Don Cross, representing Cross Nurseries Inc. requested a cluster in Section 5. No dwelling on the SW1/4 of SE1/4 of Section 5 with more than one dwelling on the NW1/4 of SE1/4 of Section 5. The cluster request was signed by all property owners.

A motion by Supervisor Mark Malecha: To approve the cluster from the SW1/4 of the SE1/4 to the NW1/4 of the SE1/4 of Section 5. Motion seconded by Supervisor Dan Rogers. Motion carried.

Don Cross requested a permit to build a 1756 sq. ft. rambler on the NW1/4 of the SE1/4 of section 5, using the clustered building site. A driveway permit was also applied for.

Property ID #13-00500-018-75.

Permit # 06-02-002 was issued for \$3,207.65

A motion by Supervisor Mark Malecha: To approve the zoning permit. Motion seconded by Supervisor Cheryl Monson. The motion carried.

Gary and Eunice Estrem inquired about property they own in Section 19. (*Dakota County lists owners as Mildred Elvestad*) They wanted to make sure the property has a building right and if the existing driveway, which is on an easement can be used to access the property. The existing driveway may be used for access, the site needs to have at least 33' of road frontage, but this does not need to be used as the access point. The building right for this property was determined at the November 8, 2004 Town Board Meeting. (*Elvestad*)

They are also considering selling property in Scott County (*Owners- Eunice Estrem and Lyle Elvestad*) this property abuts the property in Eureka Township. They asked if a barn can be located in Eureka Township adjacent to a home built in Scott County. The lot on which the barn would be located within Eureka Township would not be a buildable site for a house. The town board felt that since the properties are in two separate counties and would remain two separate parcels that the attorney's opinion would need to be obtained before a decision could be made.

Clyde Thompson and Ken Malecha- Golf Course Request

Supervisor Mark Malecha excused himself from the town board on this issue, due to a conflict of interest.

A Golf Course is not a permitted use in the Township under the current Zoning Ordinance. The procedure to change the zoning ordinance is under Chapter 5. The township currently does not have an application form; the clerk researched and prepared an application form, the town board would like their attorney review the application form before it is put into use.

The two property owners have approximately 300 acres and are looking to build a eighteen hole golf course, a club house and a driving range. The town board asked that a formal request in writing be submitted to the clerk. The request will be forwarded to the township attorney to advise on our Ordinances and Comprehensive Plan.

CUP Reviews

Hansen Airstrip

A concerned citizen submitted photos of property owned by Mr. Hansen. Butch Hansen stated that the photos of his property had nothing to do with the airstrip that he his building on his property.

Brian Watson, Dakota County Soil and Water conducted a site review of the Hansen airstrip property on February 13, 2006. Mr. Hansen is currently compliant with both the Minnesota Wetland Conservation Act (WCA) and the National Pollutant Discharge Elimination System permitting requirements.

A condition of the WCA approval was that a silt fence be installed along the runway portion the crosses the wetland to minimize further wetland disturbance. There was no evidence of a silt fence. The project is ongoing. A schedule would be helpful to address both wetland replacement and seeding requirements. *See attached letter from Brian Watson dated February 13, 2006.*

Butch commented that the last time dirt was moved was in Mid December. He will install a silt fence immediately. A construction schedule will be sent to Brian Watson, cc to the Town Board.

Supervisor Gloria Belzer stated that the CUP needs to be filed with the County. There is a \$46.00 filing fee. The town board needs to determine whose responsibility it will be to pay for filing fees of a CUP that have previously has been issued. This will be taken up later in the agenda.

Chair Connie Anderson opened the floor to public comment:

Dona Rollins stated she was not familiar with the CUP and asked questions on the type of runway and type of aircraft, also the number of take offs and landings. Chair Connie Anderson briefly explained the conditions of the CUP and answered her questions.

Another citizen questioned the condition of subdividing the property. Subdividing would be property splits that include change of ownership of the property. The CUP stays with the land.

There were no public complaints directly relating to CUP.

A motion by Supervisor Mark Malecha: To the review with conditions of installing silt fence and presenting a schedule. Motion seconded by Supervisor Dan Rogers. Motion carried. \$25.00 review fee was collected. Butch Hansen will present a schedule before the next town board meeting.

Mining Reviews

Storlie Mine

John Storlie was present and represented the Storlie Mine. 39,287 cubic yards of material were removed in 2005 with a fee of \$235.72. Liability Insurance is provided by Ryan Contracting Co., operator of the mine, the renewal date is April 1, 2006. Chair Connie Anderson read from the "Eureka Town Board Annual Review of the Pre-Existing Mineral Extraction Facilities" presented for the Storlie Gravel Pit at 23449 Dodd Blvd., Lakeville, MN. There were no complaints against the operation in 2005.

Chair Connie Anderson opened the floor to public comments: Wally Bohrn 26162 Ipava Ave expressed general concerns of all gravel operations; during heavy hauling times he felt that there is a lot of spilled gravel on the road surface. Also during heavy hauling times, he would like to see warning signs along Dodd Blvd. There were no complaints directly relating to this mining operation.

John Storlie did not feel that there is very much spillage on the roadway. Some gravel may be from the truck tires. Ryan Contracting has periodically cleaned the roadway with their sweeper. Dodd is a county road; the county would need to be contacted about warning signs along the road.

Supervisor Dan Rogers will check with the county.

A motion by Supervisor Cheryl Monson: To approve the review. Motion seconded by Supervisor Mark Malecha. Motion carried.

Barton Sand and Gravel

Mike Carron could not be present at the meeting this evening, he would be available next month, if needed. "Eureka Town Board Annual Review of Pre- Existing Mineral Extraction Facilities" document was submitted for 2005 for Barton Sand & Gravel Co.'s facility at 10005 235th St W. in

Eureka Township. 190,855 cubic yards of material were removed in 2005 with a fee of \$1,045.13. Current Certificate of Liability Insurance has not been received. This permit will be tabled till March- The town board asked that a representative be present and bring the Certificate of Liability Ins.

Eureka Sand and Gravel

Madden and Sauber Pit

Francie Madden represented Eureka Sand and Gravel. 206,152 cubic yards of material were removed in 2005 with a fee of \$1,236.91. Liability Insurance has been received, the renewal date is 9/10/2006.

Chair Connie Anderson read from the "Review of 2005 for Eureka Sand and Gravel Inc. Operating pre-existing facility No.2 (Sauber) and preexisting facility No. 4 (Madden)" provided by Eureka Sand & Gravel located at 10500 West 225th St. Lakeville, MN. Chair Connie Anderson opened the floor for public comment. There were no public comments.

A motion by Supervisor Dan Rogers: To approve the review. Motion seconded by Supervisor Cheryl Monson. Motion carried.

Audit 8:30 PM

Steve McDonald from Abdo, Eick and Meyers presented a summary on the 2005 audit. They have audited the financial statements for the year ending December 31, 2005 and issued a report dated on January 19, 2006. Financial statements were distributed to the town board. Abdo, Eick & Meyers will submit the financial report, management letter and cash township reporting form electronically to the office of the Minnesota State Auditor.

Old Business

Complaint in Eureka Estates- Junk Vehicles

Supervisor Dan Rogers reported back to the town board on the 4 property owners that had not responded. Dan Rogers was able to contact John Wolf 24170 Iberia Ave, he will be cleaning up his yard this spring, and his plans include building a pole shed this spring. Robert Starbeck, 24240 Idalia Ave was also contacted, the junk truck has been removed, the collector car has been moved to the back of the lot and covered, and he plans on building a pole shed this spring. Dan Rogers was unable to make contact with the other two property owners. The remaining two property owner's names: William and Tracy Schweich- 24090 Holyoke Path and Anthony Van Grinsven- 24220 Holyoke Path will be forwarded to the attorney, he will be asked to move forward with the process of enforcement per Ordinance 8. The attorney should cc the town board.

Conroy complaint

Supervisor Connie Anderson contacted Conroy's about bringing their property into compliance. Conroy's indicated that they will be removing the old house and the barn. Connie Anderson asked that their response be in writing. The town board set a time frame of August 31, 2006 to bring the property into compliance. The Conroy's will also be asked that rodent extermination be done prior to removal of the buildings from the property. CC Castle Rock Township of town board's action..

Progressive Rail- regarding trees in easement

Supervisor Dan Rogers inspected the site; he does not feel that the trees obstructing the view are within the road right of way.

Friedges Complaint

Georgie and Tom Molitor approached the board. Georgie commented that she had requested a written statement from the board on the Friedges decision and had not received one. A copy of the January 18, 2006 Special Town Board Meeting minutes, approved this evening was presented to her. She once again questioned the board decision of the approval of a building on the property and that

she feels this building falls under non conforming use. She feels that a CUP should be issued and a public hearing be held. She also feels that the Non Conforming Use Registration submitted by Friedges was ambiguous, items 8, 9, 10, 11 and 12- the response to the questions were: "constantly changing."

Georgie referred to the minutes of June 3, 1991- a public hearing, held by the Zoning Board of Adjustments and Appeals, for Friedges Mining Permit. "Item 10) Land will be used for farming and sod field operation after completion." This condition of the CUP was never met. The town board started the process to revoke the CUP, because of various violations, but did not take further action, because Friedges said the mining had ceased and the CUP expired in December 1992. Within 3 months the land should have been returned to farmland or a sod field operation, which was never done. A CUP or permit was never issued for further use of the land.

Georgie stated that this building is rated as an F-2 Industrial or Commercial building. The Zoning Ordinance (*Page 50*) states a public hearing is required for any industrial or commercial building. Georgie asked that the town board take into consideration current ordinances, past violations, the recommendations of Building Inspector Bob Hegner and of Paul Heimkes- MN Building Code Division. The town board is duty bound to revoke the building permit. Friedges should apply for a CUP, a public hearing be held and that restrictions on land use be set, the board should take into consideration the possible expansion of this building in the future and the impact on the neighboring land, homes and the township as a whole.

Building Inspector, Bob Hegner presented a letter on February 13, 2006 explaining the conflict between Zoning and Building Code definitions. He was present; he explained that once the town board determined that the business was a non conforming use that he needed to determine how the building fit into the building code. He originally classified it as an industrial plant; he then changed the classification to an Ag related plant. The use of the building is in the agricultural industry. The building is non conforming use on Agricultural land.

Nancy Sauber commented that Friedges may be a non conforming use, which does not make them a legal non conforming use- registration does not make them legal. Tim Kuntz called Paul Heimkes, MN State Building Codes Division. Paul said that this is not an Ag related business. It is an industrial building, classified as an F-2. Nancy Sauber also commented that when a building permit is applied for that is for an industrial or commercial use a public hearing is required. A mistake was made by the town board; they should go back and follow the proper procedures in issuing the permit.

When considering the permit the town board followed the procedure for non conforming uses and structures (*page 37*).Zoning Ordinance 3.

The town board decided to contact their attorney for council on this matter. Is Friedges a Legal Non Conforming Use? Were the proper procedures followed under the current ordinances, did the town board make the correct decision, if not what are the town board's options?

New Business

Rambling River Center

Rambling River Senior Center is requesting is requesting that the township donate money to the center. In previous years the same request has been made. The town board has not donated money in the past. The town board discussed the matter and decided that no donations would be forwarded to the center.

MinnCan Project

The Minnesota Pipeline Company has proposed the Min Can Project to supply additional Canadian Crude Oil to Minnesota Refineries. Supervisor Gloria Belzer attended the meeting and presented packet provided at the meeting. There will be public information meeting the end of March in Farmington. There will also be a public hearing. Meeting dates will be put on the website.

Other Business

Building Permit Application Process

Supervisor Gloria Belzer asked for clarification on the building permit application process. Often building permit requests are not complete, when they are submitted. A process has been setup, it has to be reviewed periodically and amended as needed. The town board and planning commission will continue to work on streamlining this process.

Requests for Township Lawyer opinions

Supervisor Gloria Belzer addressed the board on this subject. The town board needs an attorney's opinion to help make decisions. Often applications for permits, per ordinances, pay for an attorney's opinion, not all attorney fees are paid for by the citizens. The town board needs to pay attention to collecting and putting money into escrow fees when considering variance, CUP's and amending ordinances. Supervisor Cheryl Monson felt that the town board needs trust themselves in reading the ordinances too, an attorney opinion is not always needed. The town board feels it needs to handle each case on an individual basis.

CUP's- county filing requirements- compliance with MN State Statutes

CUP's stay with the land and they need to be filed with the county. The CUP's that currently exist in the township need to be filed; the town board needs to decide who is responsible to pay the filing fee for these existing CUP's. Supervisor Gloria Belzer will research when the state law became into effect. All new CUP's will be filed with the county; the fee will be paid by the applicant. A list will be compiled of all existing CUP's. Supervisor Gloria Belzer will contact the MAT Office on what to do with the existing CUP's, as far as recording procedures.

March Elections

Appoint Election Judges

The clerk presented the follow persons for election judges in the March 14, 2006 Township Election: Cheryl and Earl Schindeldecker, Carol Smith, Mary Michaels, Pat Fossum, Julie Pflaum, Barb Bachman, Gloria Belzer, Marlys Shirley. Alternates are Shelly Clubb, Mike Greco and Carolyn Papke. A motion by Supervisor Mark Malecha: To accept the list as presented. Motion seconded by Supervisor Cheryl Monson. Motion carried.

North Cannon River WMO Ordinance adoption

The planning commission has reviewed the proposed ordinance ans recommended adoption of the ordinance with no changes. Connie Anderson removed herself from discussion on this matter due to her position on the North Cannon River WMO board. Vice Chair Dan Rogers assumed the position of chairman.

Supervisor Mark Malecha moved to direct the planning commission to move forward with scheduling a public hearing for the adoption of the North Cannon River WMO ordinance. Motion seconded by Supervisor Cheryl Monson. Motion carried.

Preparation for Annual Meeting

The annual Meeting agenda was discussed. The clerk will prepare the agenda and present it to the town board at their March Meeting.

Clerk Treasurer Presentation

The clerk briefly covered materials presented. Spring Officer Training was discussed. The clerk will get the training dates to all the candidates running for office, so they are aware of the training opportunities, if they are elected at the March 14, 2006 township election.

The town hall use committee will make a presentation to the town board at the March 13, 2006 Town Board Meeting.

A motion by Supervisor Gloria Belzer: To adjourn. Motion seconded by Supervisor Dan Rogers.

Meeting Adjourned at 10:37 pm.

