

# *Eureka Township*

## *Dakota County*

### *State of Minnesota*

Eureka Town Board Meeting  
June 14, 2010

#### **Call to Order**

Chair Brian Budenski called the June 14, 2010, Eureka Town Board meeting to order at 7:02 p.m. Members present were Supervisors Nancy Sauber, Brian Budenski, Kenny Miller, Carrie Jennings and Dan Rogers. Clerk/Treasurer Nanett Sandstrom was present to record the minutes. Pete Storlie was present as Planning Commission Liaison. See attached attendance sheet for additional persons in attendance.

The meeting opened with the Pledge of Allegiance.

#### **Approval of Agenda**

The following corrections and additions were made to the agenda:

Other Business: E. VRWJPO Workshop & VRWJPO Amendments to Standards  
M. Ordinance updates from Public Hearing on 5/17/2010

Old Business: B. & Non-Pump Report letters  
D. 2. Windmill Mine- Development Agreement  
12. Gravel Text Amendment Status  
13. Kelly Aggregate Fence  
14. Sheriff JPA List of Ordinances

New Business: E. Attorney- unpaid obligations  
F. Theft of gravel on Denmark Ave.  
G. Old Town Hall lot

A motion by Supervisor Brian Budenski: To approve the agenda of June 14<sup>th</sup> as amended. Motion seconded by Supervisor Nancy Sauber. Motion carried by unanimous vote.

#### **Public Comment Period**

Nancy Sauber commented on a newspaper article on Sunday, 6/6/2010, in the Pioneer Press relating to the increase in sales tax. The County is seeking Legacy benefits. It talks about shores of Chub Lake and tracts along the Vermillion River. The article mentions a million dollars the Legislature specified would help Dakota County buy Conservation Easements along the shorelines of the Vermillion and Cannon Rivers and Chub Lake in Eureka Township. It mentions that in February, the DNR plans to present formal plans to the Legislature outlining how Legacy dollars should be spent. The article will be posted on the Township website.

A citizen expressed concerns that Country Stone may be becoming a Distribution Center. There are pallets of colored blocks west of the building. This item will be addressed later in the agenda.

## Treasurer's Report

Checking Account Balance: \$1,675.07. Outstanding Checks: \$180.00. Savings Account Balance: \$132,992.21. Outstanding Deposits: \$900.00. CD Account Balances: \$142,708.16. The Ledger Balance as of May 31, 2010, is \$278,095.44.

A motion by Supervisor Brian Budenski: To accept the Treasurer's Report of June 14, 2010, as presented. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

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

## Bills and Receipts

The Clerk presented the following bills for payment:

|                                      |   |                    |
|--------------------------------------|---|--------------------|
| <b>Otte Excavating</b>               | Road maintenance thru 5/31/2010               | <b>\$10,655.00</b> |
| <b>Dakota Electric Association</b>   | Town Hall                                     | <b>\$73.22</b>     |
| <b>Frontier Communications</b>       | Phone Service Town Hall                       | <b>\$126.84</b>    |
| <b>Culligan</b>                      | Water Softener Town Hall                      | <b>\$23.51</b>     |
| <b>Dick's Sanitation</b>             | Garbage Service Town Hall                     | <b>\$41.88</b>     |
| <b>Kelly &amp; Lemmons</b>           | Legal Services thru 4/30/2010                 | <b>\$2,509.10</b>  |
| <b>PERA</b>                          | Payroll Period 5/1/2010 to 5/31/2010          | <b>\$258.29</b>    |
| <b>Nanett Sandstrom</b>              | Expenses 5/1/2010 to 5/31/2010                | <b>\$175.51</b>    |
| <b>Pro Service Lawn</b>              | Mowing- Town Hall                             | <b>\$384.75</b>    |
| <b>T &amp; C Commercial Cleaning</b> | Clean Town Hall – May                         | <b>\$42.75</b>     |
| <b>TKDA</b>                          | Glory to Glory review                         | <b>\$27.75</b>     |
| <b>Carol Kelly</b>                   | PC Recorder- 5/1/2010 to 5/31/2010            | <b>\$260.88</b>    |
| <b>Nanett Sandstrom</b>              | Clerk Payroll 5/1/2010 to 5/31/2010           | <b>\$1,577.51</b>  |
| <b>ECM</b>                           | Legal Ads                                     | <b>\$182.00</b>    |
| <b>Gold Mine Dezine</b>              | Newsletter                                    | <b>\$174.08</b>    |
| <b>IRS</b>                           | Deposit 941 June 2010                         | <b>\$968.74</b>    |
| <b>Earl F. Anderson</b>              | Signs   | <b>\$882.55</b>    |
| <b>Association of Townships</b>      | Training- Nancy & Kenny                       | <b>\$80.00</b>     |
| <b>Larson Allen LLP</b>              | Audit   | <b>\$3,500.00</b>  |
| <b>Pro Sweep</b>                     | Street Sweeping                               | <b>\$925.00</b>    |
| <b>Metro Sales</b>                   | Toner for Copy Machine                        | <b>\$84.39</b>     |
| <b>Pete Storlie</b>                  | Reimburse for mileage                         | <b>\$50.00</b>     |
| <b>Kenny Miller</b>                  | Reimburse for mileage                         | <b>\$38.00</b>     |
| <b>State of Minnesota</b>            | Withholding 2 <sup>nd</sup> Qtr 2010          | <b>\$241.45</b>    |
| <b>Nancy Sauber</b>                  | Reimburse for Training                        | <b>\$60.00</b>     |
| <b>Brian Budenski</b>                | Officer Payroll 2 <sup>nd</sup> Qtr 2010      | <b>\$669.60</b>    |
| <b>Carrie Jennings</b>               | Officer Payroll 2 <sup>nd</sup> Qtr 2010      | <b>\$581.80</b>    |
| <b>Kenny Miller</b>                  | Officer Payroll 2 <sup>nd</sup> Qtr 2010      | <b>\$387.87</b>    |
| <b>Dan Rogers</b>                    | Officer Payroll 2 <sup>nd</sup> Qtr 2010      | <b>\$581.80</b>    |
| <b>Lu Barfknecht</b>                 | Commissioner Payroll 2 <sup>nd</sup> Qtr 2010 | <b>\$166.23</b>    |
| <b>Cheryl Groves</b>                 | Commissioner Payroll 2 <sup>nd</sup> Qtr 2010 | <b>\$212.40</b>    |
| <b>Vince Mako</b>                    | Commissioner Payroll 2 <sup>nd</sup> Qtr 2010 | <b>\$147.76</b>    |
| <b>Ken Olstad</b>                    | Commissioner Payroll 2 <sup>nd</sup> Qtr 2010 | <b>\$277.05</b>    |
| <b>Pete Storlie</b>                  | Commissioner Payroll 2 <sup>nd</sup> Qtr 2010 | <b>\$286.28</b>    |
| <b>Total Bills Presented</b>         |   | <b>\$26,653.99</b> |

It was noted that Claim # 1312 is a Voided Claim. The Pro-Sweep bill total came to \$925.00. \$900 had been authorized at the May Town Board Meeting for sweeping the developments. The additional \$25 was for sweeping near the railroad tracks.

A motion by Supervisor Carrie Jennings: To approve the Claims List for Approval and Net Pay Account Distribution. The motion was seconded by Supervisor Nancy Sauber. The motion carried by unanimous vote.

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 deposited in May of 2010:

- **Local Permits**

|   |                 |  |                 |
|---|-----------------|--|-----------------|
| <b>John Storlie-</b> <i>balance of 2009 Mine Review</i> | <b>\$55.66</b>  | <b>Ames Construction-</b> <i>Dewatering permit</i> | <b>\$25.00</b>  |
| <b>Mount Olivet Retreat-</b> <i>Permit 10-08</i>        | <b>\$121.28</b> | <b>Terri Petter-</b> <i>Application Fee</i>        | <b>\$25.00</b>  |
| <b>Cheryl Minks-</b> <i>Permit</i>                      | <b>\$202.96</b> | <b>Chad Harmer-</b> <i>Application Fee</i>         | <b>\$25.00</b>  |
| <b>MC Contracting-</b> <i>Permit 10-05-01</i>           | <b>\$280.00</b> | <b>Vermillion Kennels</b> <i>Application Fee</i>   | <b>\$25.00</b>  |
| <b>MC Contracting-</b> <i>Permit 10-05-02</i>           | <b>\$280.00</b> | <b>Terri Petter-</b> <i>CUP Application</i>        | <b>\$400.00</b> |
| <b>Sauber Plumbing-</b> <i>Permit 10-05-03</i>          | <b>\$280.00</b> | <b>Terri Petter-</b> <i>Escrow CUP Application</i> | <b>\$500.00</b> |

- **Other Receipts**

**Mount Olivet Retreat-** *In Lieu of Taxes* **\$1,450.00**

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**TOTAL RECEIPTS AS OF May 31, 2010** **\$3,669.90**

It was noted that the CUP Application Fee and Escrow for the CUP from Terri Petter was received, but not deposited in May. (Outstanding Deposit of \$900 on the Treasurer’s Report)

The mileage reimbursement of \$50.00 for Pete Storlie will be deducted from the Escrow account of Ames Construction. It was for the Concrete and Asphalt tours as part of the Mining Text Amendment Application. Town Board and Planning Commission attendance to those 2 meetings will also be deducted from the escrow. (\$350.00)

A motion by Supervisor Brian Budenski: To accept the balance of the financial report as reviewed. The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote.

**Budget**

The Town Board reviewed the budget.

**Resolution 2010-03 Contracting with Town Board Member**

A motion by Supervisor Carrie Jennings: To adopt Resolution 2010-03 A Resolution to Contract with a Town Board Member under MINN. STAT. § 47188, SUBD. 5. The motion was seconded by Supervisor Nancy Sauber. Supervisor Kenny Miller recused himself from voting on the motion. The motion carried by unanimous vote.

**Contractor Time**

Bryce Otte, Road Contractor, was present to address road issues. Dust coating is scheduled for June 21<sup>st</sup>. Weather conditions may affect the application date.

The cost for a 2" overlay for Eureka Estates, -Holyoke Path and Upper 240<sup>th</sup> Street would run \$80,900. The cost to blacktop 240<sup>th</sup> St. W. from Dodd to Highview Ave., 24 feet width would cost \$192,000 and 28 foot width, \$221,000.

"No passing on right" signs- Supervisor Kenny Miller has contacted the County, but has not heard back from them. He will follow up on this item.

### **Sheriff Deputy**

A Deputy Sheriff stopped to address any Township issues. He was asked about passing on the right. It is a violation and persons are ticketed for passing in the right turn lane.

Comments were made on truck traffic on 225<sup>th</sup> St. The Sheriff Department is aware of this and issue citations when there is a violation.

The Sheriff Department was given 4 additional keys for the Town Hall for their Sheriff bags.

### **Citizen Business**

#### **Nicholas Friedges**

Nicholas Friedges was present to represent Barbara Beining on a complaint with the John Friedges property, which is located south of her property. Ms. Beining believes that the road on the north side of Friedges property (PID#13-00500-019-01) crosses over the property line. She is asking how many feet that the road is supposed to be from the property line. She also has concerns with the run-off from the property, draining onto her property. Nicholas Friedges showed the Town Board pictures of the driveway, berms and property line.

Township Ordinance states: Driveways that take access on township roads shall be located a minimum of ten (10) feet from the property line or as necessary to provide adequate drainage onto the parcel the driveway serves.

The Clerk was asked to send John Friedges a letter, including the Ordinance language and to document compliance to the ordinance with a surveyor's report. Water run-off must be retained on-site. Barbara Beining and Nicholas Friedges will be cc on the letter and given a copy of the Ordinance.

#### **John Storlie- Storlie Mine**

John Storlie expressed concerns he had about the April 15, 2010, minutes. He felt that the information in the minutes was incorrect. The portion of the minutes that he referred to was the Citizen Complaint on 235<sup>th</sup> St. & Dodd. The minutes refer to a written complaint that states: Trucks leaving the pit". It is not the pit; the property is Met Council's Construction Site. They have a 99-year lease and a 30-month easement for the construction site. They have been working on the site for over 2 years. John wanted to make sure that the record is clear that the complaint is not against the Storlie Gravel pit.

### **Open Gravel Bids- 8:00 pm**

One bid was received for limestone for Township Roads. Castle Rock Materials of Randolph bid \$8.70 for delivered material.

Last year's awarded bid was for \$8.90. Material from this pit has been used on Township roads in the past. Supervisor Kenny Miller commented that the trucking outfit is a reputable firm.

A motion by Supervisor Carrie Jennings: To accept the bid of \$8.70 by Castle Rock Materials. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

Supervisor Kenny Miller will contact the bidder and schedule limestone application.

## **Planning Commission, Land Use Permits and Related Items**

### **A. CUP Review**

#### **1. Dick Wagaman**

Dick Wagaman, 25791 Dodd Blvd (Property ID#13-01900-010-58), Conditional Use Permit for DGI Gunsmithing was up for review. Mr. Wagaman's review runs concurrent with his 3-year Federal License. He provided the Town Board with a copy of his Federal Firearm License. He has been in business since 1995. Supervisor Carrie Jennings asked what kind of security he has on the building. Mr. Wagaman stated that he has a vault and an alarm system. The building does not have any windows. There are no complaints on file from the last 3 years.

A motion by Supervisor Brian Budenski: To approve the CUP review. The motion was seconded by Supervisor Kenny Miller. The CUP is reviewed every 3 years. Supervisor Brian Budenski opened the floor for public comments. Hearing none, vote was taken on the motion. The motion carried by unanimous vote.

### **B. Permit Requests**

#### **1. Chad Harmer- 23450 Hamburg Ave. addition to Ag Pole Barn**

A correction was made to the Ag Exempt form. To qualify as Ag Exempt the answer to question 4 must be yes. Chad made the change and initialed the change. The Planning Commission did not appoint a person to do the site inspection. Ken Olstad will perform the site inspection.

A motion by Supervisor Kenny Miller: To approve the application for the farm building. The motion was seconded by Supervisor Carrie Jennings. Supervisor Kenny Miller amended the motion that the Ag exempt application was modified and the permit is approved with the caveat to have the site inspection done before beginning construction. The motion carried by unanimous vote.

#### **2. Andi Krapu- Vermillion Kennels- 24315 Dodd Blvd lean-to to Kennel Building**

Andi and Jeff Krapu were present to represent the application. They are asking to place a 60' x 20' roof over the existing outside kennels. The roof will not be tied into the building itself.

The Town Board received an opinion from the Township Attorney that this does not require an amendment to the CUP. The Planning Commission recommended approval.

A motion by Supervisor Brian Budenski: To approve the building permit application for 24315 Dodd Blvd. The motion was seconded by Supervisor Kenny Miller. The permit application will be forwarded to the Building Inspector. The Town Board asked the Clerk to send an email to the Building Inspector to take a look at water run-off from the roof.

### **Complaint Follow-up on Krapu, 24315 Dodd Blvd**

The complaint was addressed at the May Town Board Meeting. Scott Qualle, the Building Inspector has issued an Inspection Report. A letter was also received from Zoning Administrator Tom Berry of Dakota County. Additional documents were also received from the complainant.

Krapus commented that it is the gentleman's hobby. He lives in Bloomington and does not have any place to play with his boats.

Additional information presented to the Town Board states that there continues to be questionable activity.

Follow-up on this complaint could include: Ask for documentation on the comings and goings that have been outlined in the complaint, ask for proof of ownership of the other three boats, and the Township could forward Mr. Qualle's inspection report, which includes pictures of the inside use, to Tom Berry as information if he was not able to see the inside of the building. Questions could be directed to the Attorney on how the use complies with the Zoning Ordinance. Is the use of an accessory building on a very regular basis by someone other than the property owner allowed? Comment on use of 58 days out of 60 days, if it is documented. Is storage of as many as 4 boats and a car by someone other than the owner allowed and what about if compensation is given for that? Is boat repair activity in an ag building by someone other than the owner of the property allowed? Could have a discussion with the Attorney about when does a hobby become a business? If someone qualifies for an Ag Exempt Building for farm implement storage, would that person be able to store a couple of tractors and rent out or receive compensation for the rest of the space to be used by others?

Krapus confirmed that the gentleman is still using the building. He is the only person using the building. They are allowing him to use the building as a favor. He is not charged for using the building. He is helpful with horses. He chooses to help. They have never asked him to help. No money has exchanged hands.

The point was made that "compensation" does not mean only money.

It is unclear from Tom Berry's letter if he was inside the building.

A motion by Supervisor Carrie Jennings: That Supervisor Nancy Sauber forwards the list of questions to the Township Attorney. Carrie amended the motion to find out from Mr. Berry if he inspected the inside of the building and to obtain documentation on comings and goings and registration of the other three boats. The motion was seconded by Supervisor Brian Budenski. The motion carried by unanimous vote.

This item will be added to next month's agenda under Old Business. Supervisor Nancy Sauber will do the follow up on the items in question. The Kapus agreed that they would provide proof of ownership of the other three boats.

At 8:50 P.M. the Town Board took a 5 minute break.

### **3. Terri Petter-** 10132 235<sup>th</sup> St. W. Ag Building applications

Terri Petter and Dan Storlie were present to represent the applications. Building #2 is a 40' x 80' pole building with 12' sidewalls consisting of poles and a roof. This building will shelter fox. The building will have some windbreaks on the north side. Total square feet and wall height was not on the application. Terri was asked to add, date and initial the changes to the application.

As referred to in the Agricultural Building Exemption Application Question 3, the building will be used for Agricultural Products as stated in the subdivision of the Statute. A fox shelter for

whelping and raising pen is Commercial Ag use, and any use of the building as it directly relates to the commercial ag use of fur-bearing animals is allowed.

A motion by Supervisor Nancy Sauber: To approve the Building Permit Application for a fox shelter and the Agricultural Building Exemption Application by Terri Petter, 10132 235<sup>th</sup> St W., as amended. The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote. Planning Commission will verify the stake location before construction begins. Ken Olstad will make the stake inspection.

Building #1 is a 70' x 80' pole building with 16' sidewalls to be used for food storage, processing, breeding, container storage (to store meat and cereal for the animals) and drying racks for fur-bearing animals. The Total project square foot was missing. Terri was asked to add, date and initial the change to the application.

The Agricultural Building Exemption Application describes the intended use of the building as walk-in freezers for food, raw pelts, and dead animals, coolers for food, storage of pelleted food, breeding area for artificial insemination, equipment storage (meat grinders, mixers, etc), an emergency area (for sick animals) and an office for paperwork that is specifically for the fur-bearing animals. Any use of the building that directly relates to the commercial ag use for fur-bearing animals is allowed.

As referred to in the Agricultural Building Exemption Application Question 3, the building will be used for Agricultural Products as stated in the subdivision of the Statute.

The maximum number of people that will be present in the building at any one time is 10. No septic will be installed at this time. They will be using an existing septic system.

Supervisor Nancy Sauber asked, as a follow-up to the discussion at the Planning Commission meeting and with the Building Official, that it is clear, as part of the statement that Terri signed, that: I understand that the projects that involve erecting, altering, expanding, remodeling, or repairing a structure will require building permits from Eureka Township, which I am responsible for obtaining. I also understand and acknowledge that should the subject building be converted to non-agricultural use (including but not limited to garage, home occupancy, or personal use structure), I must obtain a building permit prior to such conversion. I understand and acknowledge that post-occupancy inspections may be made to assure continuing compliance with agricultural building requirements.

There was discussion about if it was established that the tours and workshops were an allowable use, this use would not be allowed in the building. There shall be no modification of the buildings for public use. Should there be any modification of the buildings for public use, a building permit would need to be applied for and the use looked at also.

Terri was asked to draw the buildings on the site map and label the buildings as Building #1 and Building #2. Planning Commission Chair Ken Olstad will inspect the stakes prior to construction.

A motion by Supervisor Brian Budenski: To approve the building permit application for 10132 235th St., Terri Petter as amended and initialed. The motion was seconded by Supervisor Dan Rogers. The motion was amended to include the Agricultural Building Exemption Application. Supervisor Dan Rogers accepted the amendment. The motion carried by unanimous vote.

Terri commented that there is an old red barn, where building #2 will be located. A tear down permit is required to remove the building. This can be done as an over-the-counter permit.

### **C. Land Use & Zoning Issues**

#### **1. Terri Petter- 10132 235<sup>th</sup> St. W.- CUP Application**

Some of the uses presented on the CUP Application are permitted by right and would not need a CUP. Some might be accessory uses, if it can be determined by examination that they can meet the Ordinance definition of Accessory Use. There is one use that could be a CUP under Ag Service, and there are some uses that are not allowed uses. The attorney has been consulted on this and the Town Board informed.

Activities or use directly relating to the production of animals for pelting are a permitted use of the property. It is Commercial Ag., a use by right.

The Attorney's opinion is that the other uses are not eligible for a CUP. Workshops, open houses and tours are not to be the primary use of the property as, logically, the draw for these groups would be to see a functioning fur farm. If the tours were somehow the primary function, that would indicate that animal exhibition is the primary function, and the Board would need to revisit its September 2008 determination that the property is used for commercial ag.

Examples of Ag services are implement repair or harvesting crops. The only possible use of a CUP as an Ag Service would be if only other fur farmers and animal breeders were taking the tours. That might be a service within the Ag industry. That would also then be a public use of the building if they went into the building, and re-permitting of the building would be required. It would no longer be Ag exempt.

If others outside of fur farmers, such as Boy Scout troops, were to pay a fee for the tours, then that would be a use that would need to go through a zoning compliance review. If it could be shown that the Town's definition of an Accessory Use could be met, then that use could be allowed. Under Town Ordinances, an accessory use must be a) subordinate to a permitted use on the same lot; b) customarily associated with the principal use on the lot (in this case, fur farming as Commercial Ag.); c) incidental with the principal use; and d) does not change the character of the principal use. The first thing or primary issue would be to determine how customarily associated this activity is with operating a fur farm or commercial ag in general. The attorney's opinion is that it is not customarily associated with the primary use. However, others may be more familiar with agricultural customs and practices. Evidence could be presented to the Town Board to support that it is an accessory use. The number of tours or workshops and the numbers in attendance would be presented and discussed. If the workshops and tours are determined to be an accessory use, then the use of the building would need to be addressed. Public use of the building would require re-permitting as for new construction, as stated earlier by the Building Official. Terri Petter stated that they would not be going into the building. If workshop and tours are determined to be an accessory use, the Board may need information about off -street parking per Ordinance 3, Chapter 4, Section 3. A. The attorney has not yet been consulted on this last point.

As presented in the application, description of and reason for request: raising, breeding, processing fur and processing food for fur-bearing animals are permitted uses. The workshops, open houses, and tours for a fee could possibly be an Accessory Use, but it would have to be determined as that as defined in the Ordinance. Retail is not allowed. Terri indicated that "trapping, hunting and



nutrition” refers to teaching people about trapping, hunting and nutrition in workshops and tours. This use would need to be established as an accessory use as well.

The options could be to withdraw the CUP application with the understanding of the uses. Terri could reapply for Ag Service if giving the tours to fur farmers and others in the Ag industry only. Or Terri could ask for a zoning compliance review to see if tours, open houses and workshops qualify as an accessory use under the Ordinances. Subordinate to a permitted use on the same lot, customarily associated with the principal use on the lot (fur farming as Commercial Ag.), incidental with the principle use and does not change the character of the principal use.

Terri asked if the Apple Orchard and Chub Lake Feed are accessory uses. Chub Lake Feeds is a CUP; they have retail. The Apple Orchard is a permitted use, they are selling product that is produced on the property. Ag Services are allowed, not Ag retail.

It was asked that since Terri’s CUP application included retail as a use, the Township Attorney be asked to clarify how retail relates to Commercial Ag.

Terri commented that they have been doing this for years, and while reviewing Township Ordinances she realized that maybe she is supposed to have a CUP for Ag Services. She felt that it should be grandfathered under the old Ordinances. She has lived on the property since 1992. She has been selling retail, had animals for years and giving tours for a fee for years. Terri asked about the Bachman use, change of dates in the Ordinance and how it relates to her Ag Use. Does she have grandfathered rights for retail sales?

Supervisor Kenny Miller commented that Ordinance 20 had a provision for a CUP for roadside stands for retail sales as part of Commercial Agriculture. He asked that the attorney be asked if there are any grandfathered rights of a conditional use under Ordinance 20. It was clarified that the use Kenny was referring to was not that in the current Ordinance for temporary stands.

Terri was asked to enter the property ID# on the CUP Application form, initial and date the change to the application form.

It was noted that Terri Petter has an outstanding obligation to the Township for a building permit approved at the January 8, 2007, Town Board Meeting. The permit was not paid for or picked up. The Township paid out \$2,410.96 for the Plan Review to the Building Inspector. Terri Petter commented that she is not going to pay the Plan Review Fee, because her attorney bills were \$14,000 to try and get an Ag permitted barn that they fought about for months.

Follow-up on the CUP Application will take place at the July Town Board Meeting. The revised CUP application was received on 6/1/2010.

## **Other Business**

### **B. Planning Commission Update**

Pete Storlie presented the Planning Commission update.

The Planning Commission interviewed 3 candidates for the Commercial/ Industrial Task Force: Mike Jacobson, Jim Sauber and Jeff Otto. Ken Olstad is going to do a phone interview with Mike Giles, who was unable to attend. Recommendation for appointment will be given to the Town Board at the July meeting.

They talked with Scott Qualle on Building permit process. A separate meeting will be set with Scott to discuss this. Supervisor Brian Budenski offered to attend the meeting.

Planning Commission is seeking guidance on the Mining Text Amendment request.

The Roundtable Meeting should be a set date early in May to set a basis for the year.

Ordinance Update public hearing- The Planning Commission recommended adopting the proposed ordinance changes except the non-conforming use. They proposed that they work with non-conforming use businesses and the attorney to make sure that the language fits the needs of the community and the agricultural section, make sure that the definitions on page 5 of the Ordinance coincide with the Permitted Uses as outlined on page 49. Reevaluate the language as removed meets intended use.

Pete commented on the Public Hearing on the Subdivision Ordinance. The Planning Commission did not have knowledge on the proposed ordinance language. He felt that the proper procedure was not followed in calling the public hearing. He felt there was a breakdown in communication.

The Planning Commission requested a copy of draft Town Board minutes once completed. Communication lines need to be improved and to utilize people to the benefit they have.

Supervisor Nancy Sauber commented on the public hearing. There are three ways that Ordinance amendments can be initiated: an individual requests a text amendment, the Planning Commission puts forth ordinances or the Town Board initiates it. The Planning Commission is in charge of holding the Public Hearing. Information can be sent through the Clerk for informational purposes. The Liaison at Town Board and Planning Commission meetings is a tool that the Board uses to relay information between the two boards.

The Subdivision Ordinance was the first draft. It is a common practice for attorneys to take an Ordinance, change text to meet another entity's needs. The attorney started with a very small city's ordinance, took out references to a city such as city sewer and water. Had he had started from scratch as was suggested it would have cost ten times as much. The Clerk sent out an email shortly after the Town Board meeting stating the Township Attorney was working on a draft and it would be sent out as soon as it was sent out one week after the board meeting. There was ample time to ask questions of the attorney prior to the public hearing. Further discussion will be held at the Roundtable meeting.

The Agricultural Building Exemption Application form was last updated in 2007. The Clerk was asked to forward the Agricultural Building Exemption Application to the Building Inspector for review. The Planning Commission was asked to review and update the form.

### **C. Roundtable Meeting Planning Commission and Town Board**

Tentative dates for the Roundtable meeting have been sent to members. The meeting will be scheduled later this month.

### **D. Planning Commission Liaison- pay for attending Town Board meeting**

A motion by Supervisor Carrie Jennings: The Planning Commission liaison shall be paid for attending the Town Board meeting. A friendly amendment by Supervisor Brian Budenski that they only need to stay until the Planning Commission Update is complete. The amendment was

accepted. It is their judgment call to stay later. The motion was seconded by Supervisor Kenny Miller. The motion carried by unanimous vote.

**E. VRWJPO Workshop & Amendments to Standards**

The workshop, which is for local elected and appointed officials, has been posted as a Special Meeting of the Town Board and Planning Commission. Town Board and Planning Commission attendance is encouraged.

Supervisor Carrie Jennings commented on the Amendments to Standards. The Standards have been changed, so the Township is mostly exempt. She sees no problem with adopting the amended Standards. As long as the Township zoning stays 1 on 40, the buffer requirement will not take effect. The amendments that were approved by the VRWJPO will be forwarded to all Town Board and Planning Commission members for review. Supervisor Nancy Sauber will forward the Board's questions on the VRWJPO amendments to the Attorney, with the added request that he give his opinion in time for the Roundtable Meeting, as this will be discussed at the Roundtable meeting.

**Old Business**

**12. Gravel Text Amendment request**

The Town Board discussed the next step in Gravel Text Amendment request. All the information collected so far will be sent out to Town Board and Planning Commission members for use at the Roundtable meeting.

**3. Butch Hansen**

Butch Hansen was present. He showed Chair Brian Budenski the original Stipulation of Notice and Declaration of Discontinuance of Nonconforming Use. The document appeared to have been filed with the Dakota County Recorder's Office. He took the document back before Brian was able to verify the recording. He refused to allow any other Board members or the Clerk to view the document or the Township to make a copy for their records. He would not provide the Township with the file number.

**Other Business Continued**

**F. Industrial/ Commercial Taskforce**

Previously addressed

**G. Training Approval**

Supervisor Nancy Sauber has signed up for a Government Training Services Workshop- "The Why and How of Working Nature into Land Use Decisions" - \$75.00. Upon proof of attendance, she would like to be reimbursed for this and is requesting approval of money for the MAT Summer Short Course - \$40.00. (Billed to the Township).

A motion by Supervisor Dan Rogers: To approve Nancy Sauber's request as outlined above for training. The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote.

Kenny Miller has registered for the MAT Summer Short Course, Local Board of Appeals & Equalization Training course as required by New Town Board members per the Reorganizational meeting.

#### **H. Fee Schedule Memo**

Supervisor Nancy Sauber briefly commented on the fee schedule memo from the Township attorney Trevor Oliver for the July Town Board Meeting. The only role the Town Board has in review of building permits is zoning compliance. The Building Inspector handles all the permitting. The Building Inspector would not review the permit or plans until after payment is received. It was requested that this item be discussed in more detail at the July Town Board meeting.

#### **I. Newsletter**

Jody Arman Jones, newsletter editor, was present to discuss the newsletter July newsletter. Content was discussed. The newsletter will be printed after the July Town Board Meeting.

#### **M. Ordinance Updates from Public Hearing 5/17/2010**

The Town Board discussed the Ordinances update recommendation from the Planning Commission. They agreed that the nonconforming language would be set aside.

The Board agreed to put the changes to Ag aside for the time being. There was concern expressed at the public hearing that the proposed changes were not eliminating any ag uses and that the changes were in accord with the Statutes. It was suggested that the Planning Commission could put together a work group to look at the Ag section and work with the Attorney to address these concerns. Ken Olstad said that he had done a lot of research on those concerns with the ag section, but did not have his report completed in time for the Planning Commission meeting. It was suggested that his document could be forwarded to the Township Attorney through the Attorney Contact Person, and a work group would not be necessary. The Board agreed to do this.

The Town Board had a few changes that they wanted to incorporate in the Ordinance. Ken Olstad had the word document on his computer, which was down. It should be working tomorrow. He would be available to edit the document on Tuesday. There was no hard copy available to mark up at tonight's meeting. A quorum of the Town Board and Planning Commission Chair Ken Olstad would be available tomorrow night to make the changes.

A motion by Supervisor Kenny Miller: To move this portion of the meeting, addressing Ordinance Updates to tomorrow night, June 15<sup>th</sup> at 7:00 p.m. The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote.

#### **J. Approval Fire Contract for Lakeville**

The Town Board received the Fire Contract prior to the meeting. The contract is based on a 3.8 % increase. It is a 4-year contract until 2011.

A motion by Supervisor Carrie Jennings: To approve the Fire Contract with the Lakeville Fire Department. The motion was seconded by Supervisor Kenny Miller. The motion carried by unanimous vote.

#### **K. 2009 Audit**

The 2009 Audit is complete. The audit report was presented to the Town Board for review.

#### **L. Ag Preserve Application- Judith Heintz**

Judy Heintz requested to move her Property ID 13-00100-017-26 consisting of 143.95 acres currently in Green Acres to the Metropolitan Ag Preserve Program. They are initiating expiration at the time of the application.

A motion by Supervisor Carrie Jennings: To approve the Ag Preserve Application for Judith Heinz of Property ID 13-00100-017-26. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote.

## **Minutes Approval**

### **Eureka Town Board Meeting Minutes May 10, 2010**

A motion by Supervisor Nancy Sauber: To approve the Eureka Town Board Minutes of May 10, 2010, as presented. The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote.

### **Special Town Board Meeting Minutes May 28, 2010**

A motion by Supervisor Carrie Jennings: To approve the Minutes of the Special Town Board meeting of May 28, 2010. The motion was seconded by Supervisor Dan Rogers. The motion carried by unanimous vote

## **Old Business**

### **A. Citizen complaint follow-up- Dust Control**

The complaint was reported at the May Town Board Meeting. The Clerk sent the complainant an email in response.

### **B. Non Compliant Septic- Wayne Hallcock**

There are currently 2 noncompliant septic systems in the Township. One of the persons is working with the Septic Inspector. The other, Wayne Hallcock, has refused to bring his septic into compliance. Supervisor Nancy Sauber received response back from the Attorney on this issue. The information will be put in the Planning Commission and Town Board folders for the July Meetings. Septic Inspector Darrel Gilmer can enforce the County Ordinance that the Township adopted on October 14, 1996.

### **C. Discussion Items from last meeting- Nancy Sauber**

Tabled

### **D. Misc.Updates**

#### **1. Hawkins Permit**

It is on the Court Docket for July 7, 2010. The permit needs to be paid for and the conditions met for it to be taken off the Court Docket.

#### **2. Windmill Mine Development Agreement**

Kenny Miller handed out the Development agreement as drafted by the Township Attorney. Kenny has reviewed the document and a few changes were incorporated into the draft agreement. The Town Board will review the agreement for the July Town Board Meeting.

#### **3. Hansen covenant and letter- Already addressed**

**4. Sauber Trust**

This item was taken off the agenda. A letter was received from the Saubers' Attorney stating that the Saubers have no obligation in paying Township expenses in enforcing the Reclamation of the mining property. It referenced the Letter of Credit.

**5. Wat Lao**

Supervisor Carrie Jennings has drafted a letter to be sent to Wat Lao. A copy of the letter should be sent to the Clerk and forwarded to the Town Board for reference.

**6. Buffington**

Nothing new

**7. Roberts**

Nothing new

**8. Adelmann Structure**

Supervisor Brian Budenski is following up on this item.

**9. No Dumping Signs- bounty**

Tabled

**10. Country Stone Update**

The wording of the settlement agreement is completed. The site plan is being revised. There will be a meeting of the Town Board regarding the settlement.

**11. Town Hall Rental Agreement**

A motion by Supervisor Nancy Sauber: To further amend the Town Hall Rental Policy to say "Registered Non-Profit". The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote. The Clerk will amend the agreement.

**12. Gravel Text Amendment-** already addressed

**13. Kelly Aggregate Fence**

Kelly Brosseth has been out of Town for a month. Supervisor Brian Budenski will follow up on this item.

**14. Sheriff JPA Ordinance**

Supervisor Brian Budenski sent the Ordinances to Dakota County. No response from the County has been received.

**15. Septic Letters**

Supervisor Carrie Jennings has drafted the septic letters. She wanted to add a deadline for response. The Town Board agreed on 30 days from the date of the letter.

**New Business**

**A. 2010 County/ Township Tire Collection**

Supervisor Dan Rogers will contact the County to let them know that the Township is interested in participating in a Township-wide tire collection.

## **B. Meeting Procedures- Dan Rogers**

Tabled

A motion by Supervisor Brian Budenski: That the Eureka Town Board Meeting of June 14, 2010, is continued into June 15, 2010. The motion was seconded by Supervisor Carrie Jennings. A friendly amendment was offered by Kenny Miller: Except for the scheduled discussion on the Ordinance update. Supervisor Brian Budenski and Supervisor Carrie Jennings accepted the amendment. The motion carried by unanimous vote

## **C. Hearing Statement**

Supervisor Nancy Sauber read the following statement into the record:

At its May 10, 2010, meeting, the Board asked the Attorney to write a basic Subdivision Ordinance. It is the Attorney's opinion that the language he submitted is a minimum for such an Ordinance.

The Board had discussed at its May 10<sup>th</sup> meeting whether to have the language come back to the Board before going to the public hearing, or to put it on a public hearing, receive comments, and then do whatever revisions might be desired. The result of that discussion, for better or worse, was to put the language to the hearing, receive comments, and go from there. Since the Ordinance was inadvertently repealed, it was thought best to reinstate lot split approval at the earliest time. This was the *Board's* decision.

On May 11<sup>th</sup>, the Clerk sent an email out, stating that the Attorney was working on the language, and it would be sent as soon as she received it. The attached Public Hearing notice was published on May 14<sup>th</sup> for June 7<sup>th</sup>. The first draft of the Subdivision Ordinance language (and it was noted on the email that it was the first draft) was sent on May 17<sup>th</sup>. The Attorney accommodated the Board's request to try to meet a short timeline.

This was three weeks before the scheduled hearing. The attorney contact received no questions from the Planning Commission or the Board seeking Attorney input concerning the language ahead of the hearing. There were Planning Commissioners in attendance at the Board meeting who were present for the discussion of the topic, how lot split approval was unintentionally lost, why it would be of benefit to the Township and its residents to regain it, and so on.

Any Commissioner not present at the meeting could have asked those present any questions he or she might have regarding the hearing and the need for the reinstatement of the Ordinance. Any Board Member or the Clerk could have been called and asked questions. There was no request from the Commission to have the Attorney present at the Hearing to answer any points raised or questions asked. The Attorney Engagement Policy covers the Commission's ability to do so and is referenced the Planning Commission Policy and Procedure Manual.

There was no request from the Town Board to ask for Attorney presence at the Hearing. Following one call from a citizen on June 3<sup>rd</sup>, the Attorney Contact called the Attorney, discussed the Ordinance with him and asked him to please write a memo, which he did. He did so very accommodatingly and with a very quick turnaround, that is, the same day. This was forwarded to the Commission and the Board. What information from that memo was given at the Hearing?

I would suggest that the Board ask a work group of a member from the Commission and a member from the Board to work with the Attorney in addressing any changes to the language.

I would also suggest that the Board ask the Attorney to attend the July meeting in order to further discuss this with him. It is certainly worth further conversation. This would be a cooperative, constructive approach to working with the Township's Legal Professional.

In summary, in all fairness, the Attorney did all that was asked of him and did so in a short period of time. To the extent that there are questions or concerns, perhaps the Township Representatives, *all* of us, should acknowledge the responsibility that is ours. We might consider what more might have been done or might have been asked to make the Hearing and consideration of the Subdivision Ordinance Language go more smoothly.

**D. Policy for "What's new on the website"**

Tabled

**E. Attorney- unpaid obligations**

If language is added to the Ordinance, it would give enforcement of unpaid Obligations. The Township would not issue a new permit until an old permit is paid. The Township cannot go back retroactively on past unpaid obligations. Supervisor Nancy Sauber was directed to ask the attorney to move forward in drafting the language.

**F. Theft of gravel on Denmark Ave.**

Road Supervisor Kenny Miller received a call from a resident that gravel was stolen off of Denmark Ave. It was reported to the Sheriff's Department. A report from the Sheriff's Department on the incident was given to Supervisor Kenny Miller.

**G. Old Town Hall lot**

The neighboring property is using the old Town Hall lot as a driveway to his property. He has created ruts that are making it difficult for the mowing contractor to mow the property. Supervisor Brian Budenski will contact the resident about the complaint.

**Clerk/ Treasurer Presentation**

**A. Central Valley- Propane Contract**

The current contract price for propane is at \$1.52; last year's contracted price was \$1.34. There is a balance of \$492.41 from last year's contract. (last fill 4/22/2010) In the 2009-2010 season 517.9 gallons were used.

A motion by Supervisor Brian Budenski: To give the Clerk permission to pre-pay and lock in the price of propane for the 2010-2011 heating season. (700 gallons at \$1.52) The motion was seconded by Supervisor Carrie Jennings. The motion carried by unanimous vote.

**B. Wind Energy- Stimulus Bill**

This item was a sales advertisement. No action was taken.

A motion by Supervisor Brian Budenski: To adjourn. Motion seconded by Supervisor Carrie Jennings.

Meeting was adjourned at 12:14 a.m.