

EUREKA TOWNSHIP MINUTES SEPTEMBER 10, 1990

MEETING CALLED TO ORDER AT 7:30 PM BY CHAIRPERSON SCHINDELDECKER. PRESENT WERE SUPERVISORS CURRY, JOHNSON, KADLEC, AND TOPP, CLERK LEINE AND TREASURE SCHULZ.

MINUTES OF AUGUST 13, 1990 WERE READ BY CLERK LEINE. MINUTES WERE CORRECTED TO REFLECT THE FOLLOWING. PARAGRAPH 5 LINE 6 TO READ "THE LATE 1800'S", LINE 9 TO READ "TO FARMSTEAD" IN PLACE OF "NOW COUNTY ROAD 86". PAGE 3 PARAGRAPH 1 TO READ "LAKEVILLE AND FARMINGTON ADMINISTRATORS" IN PLACE OF "M.A.C". PARAGRAPH 6 LINE 1 CORRECTED TO "ROBERT EDMUNDS". CURRY MOVED TO EXCEPT MINUTES AS CORRECTED, SECONDED BY KADLEC AND CARRIED. KADLEC MOVED TO EXCEPT TREASURES REPORT AS READ, SECONDED BY TOPP AND CARRIED.

CLERK LEINE INTRODUCED BILLS TALLING \$10,543.88. TOPP MOVED TO PAY BILLS AS PRESENTED, SECONDED BY JOHNSON AND CARRIED.

RALPH MOHN, 7995 255TH ST W, FARMINGTON, REQUESTED A PERMIT FOR AN ADDITION OF 256 SQ FT TO HIS HOUSE. ADDITION WAS VALUED AT \$12,462.00, WITH A PERMIT FEE OF \$144.00. KADLED MOVED TO GRANT PERMIT, SECONDED BY JOHNSON AND CARRIED.

CHAIRPERSON SCHINDELDECKER CLOSED TOWNSHIP REGULAR MONTHLY MEETING AT 8 PM AND REOPENED THE PUBLIC HEARING FROM AUGUST 13, ON THE HIGHVIEW AVE EXTENSION PETITION.

CHAIRPERSON READ A LETTER TO THE TOWN BOARD DATED AUGUST 16, 1990 RECEIVED BY CLERK LEINE ON AUGUST 21, 1990, A LETTER FROM JAMES N BENSON, WITHDRAWING OFFER TO BUILD ROAD IN QUESTION, IF TOWNBOARD DID NOT DECIDED IN FAVOR OF PETITION. SEE ATTACHED LETTER FOR COMPLETE CONTENTS.

CHAIRPERSON THEN READ LEGAL REVIEW OF PETITION AND TOWNSHIPS OPTIONS REGARDING THIS PETITION FROM GRANNIS AND HARMEYER. SEE ATTACHED LETTER FOR COMPLETE CONTENTS.

SUPERVISOR CURRY INFORMED HEARING THAT HE TALKED TO ALBERT WACHTER, TOWNBOARD MEMBER 1970-1978, AS WAS TOLD HE (ALBERT WACHTER) DID NOT REMEMBER ROAD IN QUESTION BEING A ROAD. CURRY ALSO TALKED TO GEORGE SAUBER, FORMER BOARD MEMBER, DOES NOT REMEMBER THIS AS BEING A ROAD, BUT DID REMEMBER PERSONS ASKING TO HAVE IT CLOSED. CURRY BROUGHT COPIES OF MAPS FROM THE DAKOTA HISTORICAL SOCIETY DATED 1874, 1879, 1896, AND 1916. ONE CANNOT TELL FOR SURE IF A ROAD EXISTED OR NOT BY THE MAPS.

SUPERVISOR TOPP THEN DID A REVIEW OF THE ~~PUBLIC HEARING~~ FACTS PERTAINING TO THE PROPOSED PETITION FOR THE RECORD.

HENRY LARSON, FORMER BOARD MEMBER DOESN'T REMEMBER ANYONE ASKING IF THIS WAS A TOWNSHIP ROAD OR NOT.

CLERK LEINE, FROM THE 1978 MINUTES, DID NOT FIND ANY REFERENCE TO THE FACT THAT THERE WAS EVER A ROAD. HE DID FIND A REQUEST TO CLOSE A ROAD AT THIS LOCATION. BOARD REPLIED "NO PERMIT REQUIRED TO CLOSE ROAD".

EDWIN FREDRICKSON STATED THAT HE AND HIS BROTHER RENTED A FARM IN 1933 THAT WAS ACCESSED BY ROAD IN QUESTION. HE ASSUMED THAT THIS WAS A TOWNSHIP ROAD BECAUSE THEY DROVE IT TO BUILDING SITE AND NEVER NEEDED TO DO ANY MAINTENANCE ON SAID ROAD.

IN A LETTER TO THE TOWNSHIP FROM MACKLIN & NORD, DATED MAY 14, 1990, MACKLIN POINTED OUT THAT "IF, BASED UPON THE SURVEY, A PROPOSED ROADWAY WERE USED FOR THE APPROPRIATE PRESCRIPTIVE PERIOD A ROAD WOULD BE ESTABLISHED BY USE. (SEE MAY 14, 1990 MINUTES FOR COMPLETE TEXT OF LETTER).

MINN STATUS, 160.05 SUB DIVISION 1, IF ROAD USED AND MAINTAINED FOR A PERIOD OF 6 YEARS, IT IS DECREED AS A ROAD TO THE WIDTH IT IS USED AND MAINTAINED.

TOPP STATED IN HIS OPINION, PLATE BOOK MAP DATED 1879 SHOWS A ROAD GOING FROM 267TH TO COUNTY ROAD 86 ALONG HIGHVIEW. PLATE BOOK MAP DATED 1896, SHOWS SAME ROAD FOLLOWING PRESENT COURSE EXCEPT GOING PAST BOB EDMUNDS AND THROUGH SHIRLEY'S PROPERTY. APPARENTLY THE ROAD WAS MOVED BY THIS TIME.

MINN STATUS, 160.09, SUB DIVISION 2, OLD ROADS TO REMAIN OPEN. WHERE THE NEW ROAD DOES NOT PROVIDE ACCESS TO PROPERTY WHOSE ONLY MEANS OF ACCESS WAS THE OLD ROAD, THEN AND IN THAT EVENT, THE PORTION OF THE OLD ROAD PROVIDING THE ACCESS SHALL REMAIN OPEN FOR TRAVEL AND SHALL BE MAINTAINED BY THE COUNTY OR TOWN ROAD AUTHORITY UNTIL OTHER MEANS OF ACCESS ARE PROVIDED, AFTER WHICH IT MAY BE VACATED AS PROVIDED BY LAW.

MINN STATUS, 160.09, SUB DIVISION 3, NOT TO BE VACATED IN CERTAIN CASES. WHEN A COUNTY HIGHWAY OR TOWN ROAD IS THE ONLY MEANS OF ACCESS TO ANY PROPERTY OR PROPERTIES CONTAINING AN AREA OR COMBINED AREA OF FIVE ACRES OR MORE, THE HIGHWAY OR ROAD SHALL NOT BE VACATED WITHOUT THE CONSENT OF THE PROPERTY OWNERS UNLESS OTHER MEANS OF ACCESS ARE PROVIDED.

ACCORDING TO THE 1896 PLATE MAP, THE SLY-SWEDEEN 80 ACRES WAS 1 PIECE OF PROPERTY AND WAS 1/4 MILES SOUTH OF 267TH ST. OWNED BY JOHN JOHNSON.

IN 1879 PLATE MAP SHOWS A HOUSE ON THIS ROAD WAY, HOUSE WAS OWNED BY A MARY OLESON.

AT ONE TIME THERE WAS A FENCE ACROSS THIS ROAD ENTRANCE STERLING TOWNSHIP V. GRIFFIN. "IN WHICH A TOWNSHIP ROAD FOR WHICH NO RECORD HAS BEEN RECORDED IN THE OFFICE OF THE COUNTY RECORDER WAS HELD TO HAVE BEEN VACATED WHERE IT HAD NOT BEEN MAINTAINED OR USED AS A ROADWAY BY THE GENERAL PUBLIC FOR A LONG PERIOD OF TIME." (SEE MAY 14, 1990 MINUTES FOR CONTEXT OF LETTER FROM MACKLIN & NORD)

A LETTER FROM DAKOTA CO. RECORDER DATED MAY 4, 1990, "UNFORTUNATELY, WE ARE UNABLE TO FIND ANY ADDITIONAL INFORMATION REGARDING THE OPENING OR CLOSING OF THIS ROADWAY." (SEE TOWNSHIP MINUTES DATED MAY 14, 1990 FOR COMPLETE TEXT OF THIS LETTER)

TOPP SUMMED UP BY STATEING, THIS IS NOT A CLEAR CUT ISSUE, WE THE TOWNSHIP MUST DECIDE IF THIS IS A ROAD OR NOT.

SUPERVISOR JOHNSON STATED THAT THE TOWNSHIP MUST SPEND MONEY ON A ROAD FOR 6 YEARS TO BE CLASSED AS A ROAD. A CARTWAY, A ROAD TWO RODS WIDE, CAN BE MADE A ROAD IF THE" TOWNSHIP ELECTS TO SPEND MONEY TO MAINTAIN A ROAD.

JERRY SWEDEEN SAID HE MUST HAVE BEEN NAIVE WHEN HE TOOK THE TOWN BOARD VERBAL ASSURANCE THAT IF HE BUILT A HOUSE ON THIS LAND THAT THE TOWNSHIP WOULD TAKE CARE OF THE ROAD.

BOB EDMUNDS STATED THAT 1 PERSON MIGHT BE NAIVE TO PURCHASE LAND WITHOUT A ROAD LEADING TO IT, BUT NOT 2 PEOPLE DOING THE SAME THING.

GEORGE SAUBER SAID HE DIDN'T BELIEVE SWEDEEN OR SLY WOULD PURCHASE LAND AND PAY TAXES ON IT WITH OUT ACCESS TO SAID LAND.

BOB EDMUNDS ASKED, WHATS HAPPENS IF THE TOWNSHIP VOTES PETITION DOWN? WILL THE TOWNSHIP HAVE TO FACE A LAW SUITE? HOW MUCH WOULD A LAW SUITE COST THE TOWNSHIP WIN OR LOSE? WOULDN'T THE ROAD BE A CHEAPER ROUTE TO TAKE AND GIVE THE LAND OWNERS ALONG THIS ROAD ACCESS TO THEIR PROPERTY.

CHAIRPERSON SCHINDELDECKER STATED THAT THE TOWNBOARD WOULD RULE ON THE PETITION THIS EVENING BEFORE CLOSE OF MEETING.

BENSON SAID THAT IF THE TOWNBOARD DID DENY PETITION, HE WAS SURE THAT HE WOULD TAKE SOME KIND ON FUTURE ACTION ON THIS MATTER. STARTING WITH A PETITION TO THE COUNTY COMMISSIONER AND POSSIBILITY A LAW SUIT AGAINST TOWNSHIP.

JAMES MADDEN TOLD THE BOARD THAT THE TOWNSHIP SHOULD GIVE THE PETITIONERS THE ROAD.

LEE TOPP TOLD HEARING THAT ALL THE DELAY AND FACT FINDING PROCESS WAS NEEDED DUE TO THE FACT THAT THE DECISION REACHED BY BOARD WOULD EFFECT FUTURE DEVELOPMENT IN THE TOWNSHIP.

JERRY SWEDEEN SAID THAT THE TOWNSHIP WAS COVERED BY ORDINANCE REGULATING HOUSING DEVELOPMENTS.

HOLLIS LARSON ASKED WHAT HAPPENS IF SOMEONE WANTS A ROAD ALL THE WAY TO COUNTY ROAD 86.

BOB EDMUNDS/ WOULD BUILDING A ROAD BY OWNER SET A PRESENCE.

WHAT SPEC'S WOULD THIS ROAD BE BUILT TO? WHO OVERSEE CONSTRUCTION?

CHAIRPERSON SCHINDELDECKER ASK FOR A MOTION TO CLOSED HEARING AND A RECESS TO STUDY PETITION. KADLEC SO MOVED, SECONDED BY CURRY AND CARRIED.

CHAIRPERSON SCHINDELDECKER CALL TOWNSHIP MONTHLY MEETING BACK TO ORDER AT 9:15 PM.

TIM ADAMS, 8785 240TH ST W, LAKEVILLE, REQUESTED A PEMIT TO BUILD A POLE BUILDING AT BLOCK 1 LOT 5 OF EUREKA ESTATES. BUILDING TO BE 20 X 27 USED FOR STABLEING HORSE. BOARD INFORMED ADAMS OF ORDINANCE PERTAINING TO THE PERFORMANCE STANDARDS FOR THE KEEPING OF ANIMALS. A PERMIT FEE OF \$10.00 WAS ASSESSED. CURRY MOVED TO

GRANT PERMIT, SECONDED BY KADLEC AND CARRIED.

DAVID LARSON. 25665 HIGHVIEW AVE, LAKEVILLE, INQUIRED ABOUT CLUSTERING OF A PARTICULAR HOMESITE ON SECTION 21. CURRY MOVED TO RENDER A DECISION THAT LARSON CAN BUILD ON SEC 21 ON 257TH ST BY CLUSTERING. NON BUILDABLE LAND MUST STAY IN SECTION 21, SECONDED BY TOPP AND CARRIED.

BOB AND IRENE RUDDLE AND GEORGE SAUBER INQUIRED ABOUT CLUSTERING ON SECTION 5 AND 6. THE BOARD TOLD RUDDLE THAT THERE WAS 2 BUILDABLE SITES IN SECTION 6., 1 BY CLUSTERING. THE SITE THAT DID NOT NEED CLUSTERING WAS A FIRST COME FIRST SERVE FOR GETTING A PERMIT. THE BOARD TOLD SAUBER THAT HE HAD 1 SITE FOR BUILDING WITHOUT CLUSTERING IN SECTION 5.

THE WAT LAO BUDDHIST ASSOCIATION OF MINN. HAS BEEN GRANTED A SHORELAND CONDITIONAL USE PERMIT FROM THE COUNTRY OF DAKOTA. COPY OF RESOLUTION NO 90-650 ATTACHED TO MINUTES. JOHNSON STATED THAT HE FELT THAT THERE HAS BEEN MORE NEW CONSTRUCTION AT THIS LOCATION AS OF AUGUST 28TH WITHOUT PERMIT FROM TOWNSHIP.

JEFFREY BUCHBEGER, 11330 235TH ST E, REQUESTED A PERMIT FOR A HOUSE AND GARAGE ON THE 40 ACRES OF LAND BELONGING TO AUSTVOLD AS PER LEGAL BUILDABLE PROPERTY DECREED BY LAW. THE HOUSE AND GARAGE WAS VALUED AT \$150,301.00 WITH A PERMIT FEE OF \$1,058.50 AND A SEPTIC FEE OF \$35.00. CURRY MOVED TO GRANT VARIANCE ON THIS PROPERTY DUE TO LEGAL DECREED, SECONDED BY KADLEC AND CARRIED. KADLEC MOVED TO GRANT BUILDING PERMIT, SECONDED BY TOPP AND CARRIED.

JOHNSON REQUEST THE TOWNSHIP PURCHASE A CLOCK.

JIM PEPERA REQUESTED A RENEWAL OF HIS C.U.P. KADLEC MOVED TO RENEW, SECONDED BY CURRY AND CARRIED.

THE BOARD REFERED THE RENEWAL OF ALF CONTRACT AND ZENDER C.U.P TO THE OCTOBER MEETING.

CHAIRPERSON SCHINDELDECKER ASK FOR A MOTION IN FAVOR OF OR AGAINST THE BENSON ROAD PETITION.

TOPP MOVED TO ENTER INTO AN AGREEMENT WITH JAMES AND ALYCE BENSON, WHEREBY THEY WOULD CONSTRUCT THE ROAD DESCRIBED IN THE PETITION PRESENTED TO THE BOARD DATED MAY 25, 1990, ACCORDING TO TOWNSHIP SEPCIFICATION AND MAINTAIN SAID ROAD FOR 1991 AND 1992. AT THE END OF THAT TIME, EUREKA TOWNSHIP WOULD ASSUME THE MAINTENANCE OF SAID ROAD. SAID AGREEMENT WOULD BE CONTINGENT UPON PROVISION BY THE PETITIONERS OF THE AFFIDAVITS AND EASEMENTS RECOMMENDED BY MR. GRANNIS, THE TOWNSHIPS ATTORNEY, AS OPTION 2A&B, IN HIS LETTER OF SEPTEMBER 7, 1990. SAID AGREEMENT TO BE DRAWN UP BY MR. GRANNIS AND PRESENTED TO JAMES & ALYCE BENSON FOR SIGNING PRIOR TO SEPTEMBER 13, 1990. CURRY SECONDED THIS MOTION. KADLEC MOVED TO AMEND MOTION ON THE FLOOR TO, ROAD MUST BE INSPECTED BY A LICENSED ROAD INSPECTOR. THIS MOTION WAS CARRIED BY THE BOARD. THE BOARD ASKED BENSON IF HE WOULD GRANT AN EXTENSION OF HIS SEPTEMBER 15TH DEADLINE TO NOVEMBER 1, 1990 TO DRAW UP AGREEMENT. BENSON REPLIED THAT HE WOULD GRANT EXTENSION. BOARD ASKED IF HE WOULD SENT TOWNSHIP A LETTER SO STATING. CHAIRPERSON TO CONTACT ATTORNEY AND SET UP MEETING FOR ALL PARTIES IN THIS AGREEMENT.

CURRY MOVED TO ADJOURN AT 11 PM, SECONDED BY JOHNSON AND CARRIED.