

**EUREKA TOWNSHIP  
DAKTOA COUNTY, MINNESOTA**

**EUREKA TOWN BOARD MEETING**

**MAY 11, 2015**

**CALL TO ORDER**

Chair Brian Budenski called the meeting to order at 7:00 p.m. and the Pledge of Allegiance was given. Town Board Supervisors present were Brian Budenski, Kenny Miller, Cory Behrendt, Carrie Jennings and Dan Rogers. Planning Commission liaison Nancy Sauber, Township Attorney Chad Lemmons and Deputy Clerk Cheryl Murphy were present.

**APPROVAL OF THE AGENDA**

Additions to the agenda were made as follows:

Land Use, Permits and Related Items: C. Official Adoption of Vermillion River Joint Power Organization Ordinance

New Business: Addition of item E. 6. Bids for Road Maintenance Service

Old Business: Addition of item D. Doodle Poll for closed meeting to discuss pending litigation.

Motion was made by Chair Budenski, seconded by Supervisor Behrendt to approve the agenda as amended. Motion carried 5-0.

**TREASURER'S REPORT**

The Treasurer's Report was given by Treasurer Marcia Wilson (*see attached report*).

Motion was made by Chair Budenski, seconded by Supervisor Rogers to accept the Treasurer's Report dated May 11, 2015. Motion carried 5-0.

The claims and receipt lists and outstanding invoices were reviewed.

Motion was made by Supervisor Behrendt, seconded by Supervisor Miller to accept the claims and distribution list. A voice vote was taken on the motion. Ayes: 5-0.

Supervisor Miller asked Treasurer Wilson to review the escrow accounts.

Motion was made by Supervisor Budenski, seconded by Supervisor Jennings to approve the balance of the financials as presented. Motion carried unanimously.

Discussion was held regarding the insurance valuation for the Town Hall building (\$543,500) and the storage building (\$102,841) which was made by the Minnesota Association of Townships Agency. It was the recommendation of MATIT to increase the insured amount of the buildings to the valuation amount, which, in turn, would increase the annual premium amount on the Town Hall to \$1,250 and the storage building to \$298.

Motion was made by Supervisor Miller, seconded by Chair Budenski to adopt a Resolution accepting valuation by Minnesota Association of Townships Agency for the Town Hall building and the storage building and increasing the annual premium amount. Motion carried unanimously.

Motion was made by Supervisor Miller, seconded by Chair Budenski to adopt a Resolution to maintain the standard deductible of \$250. Motion carried unanimously

Treasurer Wilson discussed a proposal from Lewis, Kisch & Associates to conduct an annual audit for 2014.

Motion was made by Supervisor Behrendt, seconded by Supervisor Rogers to hire the firm of Lewis & Associates to conduct an audit for the year 2014. Motion passed unanimously.

Treasurer Wilson requested approval to attend the Minnesota Association of Townships summer short course on June 18<sup>th</sup> in Rochester at a cost of \$50.

Motion was made by Chair Budenski, seconded by Supervisor Behrendt, to approve Treasurer Wilson's attendance at the Minnesota Association of Townships summer short course on June 18, 2015 in Rochester at a cost of \$50, pay at her hourly rate and pay for mileage. Motion carried unanimously.

#### **PUBLIC COMMENT**

Gary Smith, 4628 235<sup>th</sup> Street, questioned complaints that were presented at the January Town Board meeting against the gravel pit on 235<sup>th</sup> Street. Supervisor Behrendt stated he would follow up with the Clerk to have a letter sent to Mr. Smith in response to the complaint.

Mark Ceminsky, 7226 235<sup>th</sup> Street West, discussed an inappropriate comment made by Supervisor Miller in regard to Mr. Ceminsky being in Town Hall passing on information he had agreed to give to the Clerk. He stated Supervisor Miller had told him he should not come to Town Hall for three months. He noted that he is a citizen of the Township and it is his legal right to come to Town Hall.

Al Novacek, 24030 Iberia Avenue, expressed his opinion that a five person task force be appointed to review the Township ordinances prior to recodification, rather than the Planning Commission conducting the review process.

Charlie Liane, 9020 W. 235<sup>th</sup> Street, requested Chair Budenski and Supervisor Miller resign from the Board due to past deceptions in regard to the mining ordinance and proposed ready-mix concrete plant.

Randy Wood, 23775 Essex Avenue, requested the Board not consider the Windmill Concrete accessory use application until the pit is in compliance with all ordinances and all complaints have been addressed.

Don Holtz, 23787 Essex Avenue, also expressed concern regarding the Windmill Concrete accessory use application, noting that his property value could be adversely affected.

## **CONTRACTOR TIME**

Jason and Bryce Otte of Otte Excavating discussed signage that remains to be installed, a culvert that needs to be installed on 267<sup>th</sup> Street, and extra rock needed at the dead end of Highview Avenue. Supervisor Behrendt asked that extra grading be itemized on the monthly statements. Dust control was also discussed.

## **BUILDING INSPECTOR UPDATE**

Building Inspector Darrell Gilmer provided a brief update on ongoing inspections.

## **CONSENT AGENDA**

Three typographical errors were noted on the April 13, 2015 Town Board minutes.

Motion was made by Chair Budenski, seconded by Supervisor Jennings, to approve the minutes of the April 13, 2015 Town Board meeting as amended. Motion carried 5-0.

## **PLANNING COMMISSION UPDATE**

Planning Commission liaison Nancy Sauber reviewed discussions and actions taken at the May 4, 2015 Planning Commission meeting. Discussion was held with the Board in regard to the transfer of building rights (possible attorney review) and the recodification of the Township Ordinances / Code. It was noted that the intent of recodification was to consolidate the ordinances as written without changes at this time.

Motion was made by Supervisor Behrendt, seconded by Chair Budenski, to direct the Planning Commission to review the draft recodified ordinances / code. Motion carried unanimously.

## **DEPUTY SHERIFF REPORT**

A Dakota County Deputy Sherriff discussed damage occurring to the gravel roads, possibly by kids after school hours. He encouraged citizens to call 911 should they see damage occurring to the roads.

## **PLANNING COMMISSION – LAND USE, PERMITS AND RELATED ITEMS**

Julie and Dylan Larson, 24510 Highview Avenue – Exempt Agriculture Building Permit Application. Discussion was held regarding a building permit application for a loafing barn 44 x 160 feet. The Planning Commission had recommended approval subject to the submission of the parcel identification number and a site plan, both of which were provided.

Motion was made by Supervisor Miller, seconded by Supervisor Jennings, to approve an exempt agriculture building permit for Julie and Dylan Larson, 24510 Highview Avenue for a loafing barn. Motion carried unanimously.

Vermillion Request for Gauging Station. Supervisor Jennings discussed a gauging station that the Vermillion Watershed would like to locate on 220<sup>th</sup> street. She stated that a utility permit would be required but was unsure of the application process and fees.

Motion was made by Supervisor Jennings, seconded by Chair Budenski, to instruct the Vermillion Watershed that a combination permit for excavation and obstruction of right of way would be required for the location of a gauging station on 220<sup>th</sup> Street and applicable fees listed in the fee schedule would apply. Motion carried unanimously.

Official Adoption of Vermillion Ordinance. Supervisor Jennings noted that Mark Zabel of the Vermillion River Watershed had indicated that he had not received official notice of the adoption of the Vermillion River Watershed Ordinance by the Township. Chair Budenski indicated he would discuss with the Clerk if official notification had been sent.

## **NEW BUSINESS**

Spirit Ranch 1 and Spirit Ranch 2 Conditional Use Permit Annual Review – Terri Petter. Terri Petter, 10132 235<sup>th</sup> Street and Butch Hansen, 26120 Highview Avenue, were present to discuss the annual review of two conditional use permits, Spirit Ranch 1, for a dog kennel and horse boarding, located at 24005 Dodd Boulevard, and Spirit Ranch 2, for boarding, breeding and sales of cattle, located at 10132 235<sup>th</sup> Street. It was noted that no complaints had been filed against the two operations and there was no public comment made. It was also noted that a \$15 review fee is due for each conditional use permit plus a \$100 dog kennel renewal fee.

Discussion was held regarding concern over language in the conditional use permits and clarification of what activities occur on which property.

Motion was made by Supervisor Miller, seconded by Chair Budenski, to acknowledge the review of conditional use permits for Spirit Ranch 1 and Spirit Ranch 2, noting no complaints had been received. Motion carried unanimously.

Terri Petter – Invoice Issues. Butch Hansen discussed outstanding invoices, escrow amounts previously paid, and the little amount of time allowed Ms. Petter (the applicant) to make a presentation at a public hearing she was required to pay for. Ms. Petter requested that the outstanding invoices be waived due to legal fees charged for findings of fact that were not legally required. Planning Commission minutes were reviewed. Discussion was also held regarding fees charged for zoning ordinance amendments vs. all other ordinance changes and legislative issues. Supervisor Behrendt noted there was confusion during the application process due to the agritourism ordinance discussion and a task force being created at the time.

Motion was made by Supervisor Behrendt, seconded by Supervisor Miller to waive outstanding invoices for Terri Petter. Motion carried 4-1. Supervisor Jennings voted nay.

Chair Budenski called for a recess at 9:30 p.m. The meeting reconvened at 9:40 p.m.

Supervisor Kenny Miller recused himself from the following item.

Windmill LLC – Ready Mix Concrete Accessory Use. Kenny Miller discussed a proposed amendment to his existing Interim Use Permit to allow a portable ready mix concrete plant to be located within the permitted sand and gravel mining operation. He noted that Kirsten Pauly, Sunde Engineering had reviewed the proposed operation and indicated that an Environmental Assessment Worksheet would not be necessary. Discussion was held regarding the application process for the accessory use and the need for Planning Commission review. Carol Cooper, representing Mr. Miller, noted that since there are no structural alterations and no intensification of use, the request should not have to go back before the Planning Commission for review. Further discussion was held regarding ordinance language in regard to intensification of use, structural alterations, or enlargement and the need for a new permit process.

Motion was made by Supervisor Behrendt, seconded by Supervisor Jennings, that the addition of a ready mix concrete accessory use as proposed is not specifically permitted by the current Interim Use Permit, and shall require a new Interim Use Permit and all procedures shall apply.

Mr. Miller stated there is no intensification of use, enlargement or structural alteration to the current operation. It was pointed out that Ordinance 6.7.1.K specifies additional accessory uses are not allowed.

Further discussion was held by Mr. Miller, the Board and Attorney Lemmons regarding the permitting process and if there is, in fact, an intensification of use, enlargement or structural alteration to the current operation.

Vote was taken on the motion. Motion carried unanimously.

It was noted that since the change did not involve a primary use, the original filed supporting documentation could be used along with the engineering findings of the need for a new EAW.

Clarification was given to Mr. Miller in regard to the application process, (Ordinance 6, Chapter 4 and Chapter 5). Mr. Miller noted that he would be requesting an amendment to his existing permit rather than a new permit. Mr. Miller asked that his application be placed on the next Planning Commission meeting agenda.

Planning Commission Chair Nancy Sauber stated she would be recusing herself from consideration of Mr. Miller's application.

Mr. Miller resumed his position on the Board and then recused himself again.

Kelly Aggregate – Interim Use Permit Amendment. Kelly Brosseth stated he had submitted proposed amendments to his Interim Use Permit as he was instructed at the last Board meeting. Supervisor Behrendt explained that Mr. Brosseth would need to follow the same application process that Mr. Miller had been instructed to follow.

Motion was made by Supervisor Behrendt, seconded by Supervisor Jennings, that the addition of a ready mix concrete accessory use as proposed is not specifically permitted by the current Interim Use Permit, and shall require a new Interim Use Permit and all procedures shall apply. Motion carried unanimously.

Mr. Brosseth requested to be on the next Planning Commission meeting agenda

#### Quotes for Services:

1. Road Gravel – Quotes received from Castle Rock Materials, Anderson Rock and Lime, Inc., and Dakota Aggregates. It was determined that additional clarification was needed for the bids on gravel. Chair Budenski stated he would contact Dakota Aggregates for further information. Discussion was held regarding testing of the limestone.

Motion was made by Supervisor Behrendt, seconded by Supervisor Miller to contract with Anderson Rock and Lime, Inc. for Class 5 mod limestone to be hauled from Solberg Quarry. Motion passed unanimously.

2. Dust Control – Quotes received from Envirotech Services, Inc. and Dakota County.

Motion was made by Supervisor Behrendt, seconded by Supervisor Jennings, to approve a contract with Dakota County for dust control services. Motion passed unanimously.

3. Street Sweeping – Quote received from Terpstra Snowplowing and Lawn Care.

Motion was made by Supervisor Behrendt, seconded by Supervisor Miller, to accept the quote from Terpstra Snowplowing and Lawn Care for street sweeping. Motion passed unanimously.

4. Town Hall Grounds Maintenance – Quote received from Clark's Lawn Service.

Motion was made by Supervisor Jennings, seconded by Supervisor Rogers, to accept the quote from Clarks Lawn Service for Town Hall grounds maintenance. Motion passed unanimously.

5. Town Hall Building Maintenance – Quote received from Beaver Creek Companies.

It was agreed that Town Hall Building maintenance would be taken care of on an ad hoc basis.

6. Roads Maintenance

The Clerk was directed to publish a notice for bids for road maintenance to be opened at the June 8th Town Board meeting.

## **OLD BUSINESS**

Water Resources Management Ordinance Fee Schedule. Planning Commission Chair Nancy Sauber indicated she would follow up with Travis Theil regarding this item.

Complaint Follow-Up. Submitted complaints that were assigned to Board members at the May Town Board meeting were discussed. Supervisor Jennings and Supervisor Miller indicated the complaints they investigated were without merit. Supervisor Behrendt stated he will provide formal documentation in regard to his assigned complaint at the next meeting.

IT Update. Supervisor Behrendt provided an update on the new email address that will be implemented within the next few weeks.

The need for a closed Town Board meeting with Township attorneys to discuss Fredlund vs. Town of Eureka litigation was discussed. The Clerk was directed to conduct a Doodle Poll and post the meeting date.

## **ADJOURNMENT**

Motion was made by Chair Budenski, seconded by Supervisor Miller to adjourn the meeting at 11:08 p.m.

Respectfully submitted,

Cheryl Murphy  
Township Deputy Clerk