

**EUREKA TOWNSHIP
DAKTOA COUNTY, MINNESOTA**

EUREKA TOWN BOARD MEETING

August 10, 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, Dan Rogers, Carrie Jennings and Cory Behrendt. Planning Commission liaison Donovan Palmquist, Planning Commission Chair Nancy Sauber, Township Attorney Chad Lemmons and Clerk Mira Broyles were also present. See attached list for others in attendance.

APPROVAL OF THE AGENDA

Additions to the agenda were made as follows:

New Business:

Item C. moved forward to be considered after Public Comment.

Old Business:

Items B and C were reversed.

Items D and E added:

D. Sump Pump Ordinance

E. GRE Update

Motion was made by Chair Budenski, seconded by Supervisor Jennings 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 August 10, 2015. Motion carried 3-0.

The claims and receipt lists and outstanding invoices were reviewed.

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

Current investments, receipts, disbursements and balances were reviewed.

Motion made by Supervisor Miller, seconded by Chair Budenski to roll the Chub Lake Hill escrow fund of \$32,502.95 into the road and bridge fund to be used for general repair. Motion carried 5-0.

Motion was made by Chair Budenski, seconded by Supervisor Rogers to approve the balance of the financials. Motion carried 5-0.

Escrow accounts were reviewed.

Supervisor Miller recused himself from discussion of the Eureka Sand and Gravel escrow account. The Attorney was directed to provide clarification on his billing relative to Eureka Sand and Gravel. The escrows for Kelly Aggregates and Joey Miller were discussed and further clarification is needed.

The purchase of new voting equipment by Dakota County and the approximate cost to the Township was discussed.

A worksheet for extra road work being done due to construction was discussed.

DEPUTY SHERIFF REPORT

A Dakota County Deputy Sheriff noted that drivers are going around barricades in construction zones. He discussed ongoing thefts from vehicles and reminded citizens to lock their car doors and to call 911 with any suspicious activity.

PUBLIC COMMENT

Mark Ceminsky, 7226 235th Street West, noted that FEMA paperwork (discussed previously in the Treasurer's report) had been submitted several months ago. He expressed concern regarding the Enright outstanding invoice. He stated that when he was a Township Supervisor he had difficulty getting information from the Township Commercial Building Inspector Gary Staber. He suggested the Township Attorney write a letter to Mr. Staber. Supervisor Miller stated he would follow up more frequently with Mr. Staber and report back next month.

Supervisor Jennings moved to recess the regular Town Board meeting at 7:45 PM.

BOARD OF ADJUSTMENTS AND APPEALS

Chair Budenski called to order the Board of Adjustments and Appeals meeting at 7:45 PM.

Public Hearing – Variance for Use of Existing Setbacks for Dave Smith, 6675 245th Street

Chair Budenski opened the public hearing.

Discussion was held regarding the variance for the use of existing setbacks for construction of Mr. Smith's new home. The Planning Commission had reviewed the variance and recommended approval subject to any future structures meeting setback requirements.

There was no public comment.

Chair Budenski closed the public hearing.

Motion was made by Supervisor Budenski, seconded by Supervisor Miller to approve a variance for Dave Smith, 6675 245th Street, for use of existing setbacks subject to the following conditions:

1. Any further structures built on the property must meet current setbacks.
2. The project shall proceed substantially within six months.

3. The variance shall be recorded with Dakota County by the Town Clerk with recording fees being deducted from escrow account.

Motion carried 5-0.

It was noted that Mr. Smith will be reimbursed the unused balance of his escrow account.

Motion was made by Chair Budenski, seconded by Supervisor Jennings to adjourn the Board of Adjustments and Appeals meeting at 7:55 PM. Motion carried 5-0.

Supervisor Jennings moved to reconvene the regular Town Board meeting at 7:55 PM. Motion carried 5-0.

GRAVEL QUOTE

Discussion was held regarding a quote for Class #5 gravel by Dakota Aggregates.

Motion was made by Supervisor Miller, seconded by Chair Budenski to accept the price quote of \$8.75 per ton of Class 5 gravel dated August 5, 2015 from Dakota Aggregates.

CONTRACTOR TIME

Jason and Bryce Otte of Otte Excavating discussed road work currently being done within the Township. Mowing and weed cutting and the Chub Lake culvert were discussed. Butch Hansen asked about work on 225th and 235th Streets that Dakota County had committed to complete. Supervisor Rogers stated he would follow up with the County representative. Mark Ceminsky also discussed work that the County had agreed to do. He noted that Brian Sorensen had been contacted previously.

BUILDING INSPECTOR UPDATE

Supervisor Jennings noted it is confusing that Mr. Gilmer's billing statement is billed under Gilmer Excavating. Mr. Gilmer explained this is the name of his company and insurance, etc. is carried under that name. It was suggested that he add building inspections to the list of services on his letterhead.

CONSENT AGENDA

Motion was made by Supervisor Budenski, seconded by Supervisor Rogers, to approve the minutes of the Special July 13, 2015 Town Board meeting which was the annual review for the Township Clerk. Motion carried 3-0. Supervisors Behrendt and Jennings abstained.

Motion was made by Chair Budenski, seconded by Supervisor Rogers to approve the minutes of the July 13, 2015 regular Town Board meeting as presented. Motion carried 3-0. Supervisors Behrendt and Jennings abstained.

PLANNING COMMISSION UPDATE

Planning Commission liaison Donovan Palmquist reviewed discussions and actions taken at the August 3, 2015 Planning Commission meeting.

PLANNING COMMISSION – LAND USE, PERMITS AND RELATED ITEMS

Living Waters Church, 22222 Dodd Blvd. – Revised Building Plans. It was noted that the revised plans for Living Waters Church had been reviewed and approved by the Planning Commission.

Supervisor Jennings moved, Supervisor Rogers seconded a motion to approve the revised building plans for Living Waters Church, 22222 Dodd Boulevard, as presented. Motion carried 5-0.

Ryan Schuette, 4990 235th St. W. – Building Permit. Discussion was held with Mr. Schuette regarding his building plans for a detached garage. It was noted that the Planning Commission recommended approval of the building permit.

Motion was made by Supervisor Miller, seconded by Supervisor Rogers to approve a building permit for Ryan Schuette, 4990 235th St. W., to construct a 1440 square foot garage. Motion carried 5-0.

Kathleen Kaufmann, 25506 Ipava Avenue – Building Permit. Discussion was held with Mr. and Mrs. Kaufmann regarding the construction of a 960 square foot accessory building. It was noted that the Planning Commission had recommended approval of the permit.

Motion was made by Supervisor Jennings, seconded by Supervisor Miller to approve a building permit for Kathleen Kaufmann, 25506 Ipava Avenue for 960 square foot accessory building. Motion carried 5-0.

Darrin Giles, 23545 Cedar Avenue South – Building Transfer of Rights. Darrin Giles and Butch Hansen representing Terri Petter, discussed the proposed building transfer of rights for properties in Section 09-113-20. It was noted that the Planning Commission recommended approval of the transfer.

Motion was made by Chair Budenski, seconded by Supervisor Rogers to approve a residential building transfer of rights (cluster agreement) for receiving property identification number 13-00900-78-011, legally described as *Section 9 TWN 113 Range 20 Lot and Block 9 113 20; E 1/3 of SE ¼ BEG 330 FT S OF NE COR S 634.13 FT W 461 FT S 472.5 FT E 461 FT TO E LINE SE ¼ S 75 FT W 551 FT N 267 FT W 769.25 FT TO W LINE E ½ SE ¼ N OD2M3S W 910.31 FT N 89D48M46S E 1320.80 FT TO BEG*, from sending parcel identification number 13-00700-50-011, legally described as *Section 7 TWN 113 RANGE 20 Lot and Block 7 113 20, LOTS 1 & 2 EX PT OF 1 COM 1388.50 FT E OF W ¼ COR SEC E 208.71 FT R 81D 226.91 FT W & PARR WITH N LINE GOVT LOT 1 208.71 FT NW 226.91 FT TO BEG EX PT OF 1 COM NW COR E 440 FT S 538 FT W 440 FT N 538 FT TO BEG EX RICE LAKE HGTS AND EX COM 750 FT W OF NE COR GL 1 S 11D57M13S E 391.72 FT W TO E LINE RICE LAKE HTS N ON E LINE 160 FT N 08D21M 17S W 226.91 FT TO N LINE E TO BEG & EX E 250 FT OF N 600 FT OF GOVT LOT 1.* Motion carried 5-0.

Jerome Phillippe, 27798 Jamaica Avenue – Building Transfer of Rights. Jerome Phillippe and Mark Ceminski discussed the proposed building transfer of rights in Section 31. It was noted that the Planning Commission recommended approval.

Motion was made by Chair Budenski, seconded by Supervisor Behrendt, to approve a residential building transfer of rights (Cluster) for Jerome Phillippe, 27798 Jamaica Avenue, for receiving property identification number 13-0310077-011, legally described as Section 31, TWN 113, Range 20, Lot and Block 31 113 20, E ½ of SE ¼ EX E 60 ACS, and sending property PID 13-03100-76-010, legally described as Section 31, TWN 113, Range 20, Lot and Block 31 113 20, S ¾ of W ¼ of SE 1/4. Motion carried 5-0.

Mr. Ceminsky questioned the \$750 fee that was paid by Mr. Phillippe. The Township Treasurer will break down costs incurred by the Township and the remainder will be refunded to Mr. Phillippe.

Chair Budenski called for a ten minute recess at 9:30 PM.

The meeting was reconvened at 9:40 PM.

NEW BUSINESS

Scotts Miracle Gro Company. Alex Allen, Kurt Milburn, Jim Dozier and John Binder representing Scotts Miracle Gro Company located at 22447 Highview Avenue were present to discuss their new business at the previous Country Stone site. They noted that their intention is to become good members of the community and resolve the problems of the previous owner. They discussed their plant operations and requested they be allowed to have 24 hour operation on occasion. It was noted that the plant operations is bound by the Settlement Agreement dated 9/28/2010.

Supervisor Jennings questioned materials that are brought into and stored on the site. The Settlement Agreement was reviewed and it was noted that chemicals are restricted to those listed in the agreement. Georgie Molitor, 8875 225th Street West, neighboring property owner, expressed concern over noise after hours and runoff from the site onto her property. She also asked about future plans for growth of the operation. Mr. Milburn indicated there are no plans to expand the business on that site.

Motion was made by Supervisor Behrendt, seconded by Supervisor Jennings not to modify the Settlement Agreement dated 9/28/2010 for Scotts Miracle Gro, 22447 Highview Avenue. Motion carried 3-1 with Supervisors Jennings, Behrendt and Miller voting aye, Chair Budenski voted nay and Supervisor Rogers abstained.

Complaints

The status of the Petter law suit was discussed by Attorney Lemmons. He stated he would add the complaint regarding semi-trailers being used for storage to the formal complaint to be served on Ms. Petter.

An outstanding complaint against 8150 250th Street West for violation of Ordinance 3 regulating the parking and storage of junk cars and vehicles was discussed. It was determined that a public hearing would be scheduled.

Motion was made by Supervisor Jennings, seconded by Chair Budenski to schedule a public hearing for September 14th 2015 at 6:30 PM and notify land owner of the violation. Motion carried 5-0.

The Township Attorney was directed to draft the notice for the public hearing and research publication requirements.

Submittal deadline for Town Board Agenda Items. Discussion was held regarding the deadline for submission of items for the Town Board agenda. It was agreed that the Tuesday at 2:00 PM prior to the agenda packet going out on Thursday would be acceptable. A resolution is to be drafted for approval at the September Board meeting.

OLD BUSINESS

Sign Permit Process. Discussion was held regarding a recommendation by the Planning Commission that the sign permit process be changed from over-the counter permits to a review and approval process by the Planning Commission and Town Board.

Motion was made by Supervisor Jennings, seconded by Supervisor Behrendt, to require sign permits to be reviewed and approved by the Planning Commission and Town Board. Motion carried 4-1. Chair Budenski opposed.

North Cannon River Water Management Organization Report. Planning Commission Chair Sauber discussed information she received at the July 28, 2015 meeting of the North Cannon River Water Management Organization. She noted that the next meeting of the Organization will be held at Eureka Town Hall on Wednesday, November 17, 2015.

Eureka Water Management Ordinance. Supervisor Jennings discussed merging the North Cannon and Vermillion watershed ordinances, noting that after researching the issue, the two cannot be merged easily. She recommended keeping the two ordinances separate.

Motion was made by Supervisor Jennings, seconded by Supervisor Behrendt, to keep the North Cannon and Vermillion Watershed ordinances separate and clarify the text. Motion carried 5-0.

Supervisor Jennings volunteered to consult with Dakota County to clarify the text of the ordinances.

Sump Pump Ordinance.

Planning Commission Chair Sauber discussed draft language for an ordinance regulating sump pumps.

Motion was made by Supervisor Miller, seconded by Chair Budenski to forward the draft sump pump ordinance to TKDA for review and then back before the Planning Commission for processing. Motion carried 5-0.

GRE Update

Attorney Lemmons provided an update on the Great River Energy litigation, noting a trial is scheduled for December 16, 2015.

Motion made by Chair Budenski, seconded by Supervisor Miller, to adjourn the meeting at 11:05 PM.

Respectfully submitted:

Mira Broyles, Clerk