

**EUREKA TOWNSHIP  
DAKOTA COUNTY  
STATE OF MINNESOTA**

Eureka Town Board Meeting of April 14, 2014

**Call to Order**

Vice Chairman Kenny Miller called the April 14, 2014 Eureka Town Board meeting to order at 7:00pm. Members present were Supervisors Brian Budenski, Mark Ceminsky, Steve Madden, Cory Behrendt and Kenny Miller. Clerk Linda Wilson was present to record the minutes and Treasurer Nanett Sandstrom gave the Treasurer's Report. Lu Barfknecht was present as Planning Commission Liaison. Township attorney Chad Lemmons was present. See attached sheet for additional persons in attendance.

The meeting opened with the Pledge of Allegiance.

**Approval of the Agenda**

The Board discussed the large agenda and decided to move the order of presentation, many audience members in attendance needed to present data. The following item was taken off - Christiana Lutheran Church – Ball field, TKDA Fees. Add to agenda Selection of Planning Commission Candidate after the interview process.

A motion was made by Supervisor Kenny Miller to approve the April 14, 2014 amended agenda. Motion seconded by Brian Budenski. Motion carried by unanimous vote

**Public Comment Period**

Jeff Otto – 25580 Dodd Blvd. addressed the Board, welcoming new Board member Corry Behrendt. He addressed his annoyance related to the financial incompetency by the Board at the annual meeting on March 11, 2014 and their lack of responsibility in review of the budget information before the meeting. Jeff expressed that at the meeting three fourths of the questions related to the Budget and could not be answered. There was a \$46,000 error and although there was not a Treasurer on staff the Board did not recognize the incorrectness of that error. During the meeting, audience members were suggesting numbers and the Board did not make any intention of correcting or resolving these questions at that time, they would have to look into it and report at a later date. The Board did seek the experience of a Treasurer from Castle Rock Township to assist Eureka Township, who was not present at the meeting due to her own annual township meeting and evidentially no one was assigned from the Board to speak on these issues.

Pete Storlie – 8680 235<sup>th</sup> St. W. – expressed his concern, frustration and disappointment in the current's Board's lack of action at the reorganizational meeting pertaining to the Road Supervisor. He felt that the Board should have addressed that Mark Ceminsky stay on as the lead Road Supervisor due to the outstanding work that he has done the last 2 years even though he has been under sharp criticisms of his wages and personal attacks by Carrie Jennings a Planning Commission member. Supervisor Ceminsky made \$11,700 in 2013 from the Township. Approximately 70% or \$8200.00 was for road issues charged back to Dakota Electric Assoc., Great River Energy and Frontier at no cost to the township. We are holding these companies accountable for damages to the Township roads. Utility Permits have brought in about \$8,000.00 in fees and approximately \$140,000.00 in upgrades by Great River Energy and \$57,000.00 in FEMA monies. Supervisor Ceminsky was asked to remain as road supervisor during the reorganizational meeting but declined. Pete Storlie presented a

plaque presented to Mark Ceminsky for outstanding Township leadership of the year award for 2014 was given by Dakota Electric Association for the last 18 years.

A motion was made by Supervisor Kenny Miller to post the plaque in the Township office hall. Motion seconded by Cory Behrendt. Motion carried by unanimous vote, Mark Ceminsky recused himself.

A motion was made by Supervisor Steve Madden to thank Supervisor Mark Ceminsky for all the work that he has done. Supervisor Kenny Miller seconded the motion. Motion carried by unanimous vote.

Gloria Belzer, 24335 Dodd Blvd. addressed the Board and welcomed new member Cory Behrendt and returning Supervisor Brian Budenski back to the Board. Ms. Belzer spoke of the infrastructure relating to the Clerk/Treasurer position, the resignation of Nanett Sandstrom and Deputy Linda Wilson taking those duties on. The Township hired a temporary Treasurer, Colette Mumm who has currently left and the resignation of Clerk Linda Wilson at the end of April. She was concerned if the Township is treating the employees with dignity and respect and appreciation while giving them the necessary training they deserve.

Gloria Belzer reviewed the building inspector request for proposal which was sent and only one RFP was submitted by Scott Qualle of MNSPECT. Deadlines were extended and even then only MNSPECT'S RFP was submitted. Current Septic inspector Darrel Gilmer submitted a hand written agreement to a 90 day contract with an option to extend. The Township currently has no Commercial building inspector. Ms. Belzer is questioning how the Township is considering contracts if procedure and policy is being followed.

At the reorganizational meeting Supervisor Ceminsky made a motion and Supervisor Madden seconded to interview other law firms within the next 60 days as well as the current attorney Chad Lemmons. We have an excellent law firm that knows the ordinances and is familiar with the issues in the township and yet the Board feels it necessary to seek another law firm. Do our local officials think they know more than the legal counsel?

Gloria Belzer also questioned the policy of Board inspections, appointing a member of the Board to inspect a complaint on property issues. Her concerns were that Board members wouldn't be unbiased and have objective findings and opinions. This is why we contract with a building inspector.

VRWJPO was addressed at the reorganizational meeting; Mr. Ceminsky wanted to take on the process of applications which need review and possible permits issued in the Vermillion River watershed. Does the Board, members of the Planning Commission, the building inspector have the knowledge and expertise to make decisions regarding the watershed requirements? The Township currently has difficulties reviewing and issuing permits which allowed in the Eureka ordinances and enforcing the ordinances.

#### **Treasurer's Report for April 14, 2014**

Checking Account Balance \$1,676.18. Outstanding Checks \$898.03. Savings Account Balance \$406,228.76 CD Account Balances \$72,153.99. The Ledger Balance is \$479,160.90. Total Claims \$27,195.34 and Total Payroll \$3,363.76. Total Disbursements \$30,559.10

A motion was made by Supervisor Kenny Miller to approve the Treasurer's Report of April 14, 2014. Motion seconded by Brian Budenski. Motion carried by unanimous vote.

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

The Clerk presented the following bills for payment:

<b>Henry's Excavating</b>	<b>Road Maintenance thru March 2014</b>	<b>\$ 4,430.00</b>
<b>Eureka Sand &amp; Gravel</b>	<b>sand for roads</b>	<b>\$ 170.00</b>
<b>Dakota County Financial Services</b>	<b>2014 Salt &amp; Sand February</b>	<b>\$ 84.72</b>
<b>Kelly &amp; Lemmons, P.A.</b>	<b>Service thru 3/31/2014</b>	<b>\$ 4,363.75</b>
<b>Frontier Communications</b>	<b>952-469-3736 Town Hall Phone</b>	<b>\$ 130.25</b>
<b>Central Valley Coop</b>	<b>LP tank rental</b>	<b>\$ 5.36</b>
<b>ECM Publishers</b>	<b>Legal Ads</b>	<b>\$ 40.00</b>
<b>Culligan</b>	<b>147-00134684-9 Water Softener Service</b>	<b>\$ 58.06</b>
<b>T &amp; C Commercial Cleaning</b>	<b>Cleaning Town Hall January 2014</b>	<b>\$ 53.56</b>
<b>MNSPECT, LLC</b>	<b>Inspection Service billing February 2014</b>	<b>\$ 7,619.32</b>
<b>Dakota Electric Association</b>	<b>370799-9</b>	<b>\$ 206.58</b>
<b>DSI/LSI</b>	<b>acct. # 007602 garbage</b>	<b>\$ 103.82</b>
<b>Darrel Excavating</b>	<b>Inspection Services</b>	<b>\$ 5,171.08</b>
<b>Don Storlie</b>	<b>Snowblowing February 21,2014</b>	<b>\$ 980.00</b>
<b>Farmington Printing</b>	<b>Building Inspection Form</b>	<b>\$ 70.00</b>
<b>Gdi</b>	<b>ballots</b>	<b>\$ 115.00</b>
<b>Pete Storlie</b>	<b>additional mileage</b>	<b>\$ 32.48</b>
<b>Mark Ceminsky</b>	<b>Building Code Book</b>	<b>\$ 92.02</b>
<b>Linda Wilson</b>	<b>Mileage &amp; Supplies Reimbursement</b>	<b>\$ 284.37</b>
<b>USPS</b>	<b>Postage for Newsletter</b>	<b>\$ 200.00</b>
<b>Valerie Kehrer</b>	<b>Head Elections Judge</b>	<b>\$ 503.90</b>
<b>Jody Arman-Jones</b>	<b>Election Judge</b>	<b>\$ 86.16</b>
<b>Mary Ann Michaels</b>	<b>Election Judge</b>	<b>\$ 116.96</b>
<b>Cheryl Schindeldecker</b>	<b>Election Judge</b>	<b>\$ 95.60</b>
<b>Rose Buchanger</b>	<b>Election Judge</b>	<b>\$ 136.96</b>
<b>Rose Svoboda</b>	<b>Election Judge</b>	<b>\$ 147.00</b>
<b>Ealine Swedin</b>	<b>Election Judge</b>	<b>\$ 143.08</b>
<b>Jack Schabel</b>	<b>Election Judge</b>	<b>\$ 115.90</b>
<b>Earl Schindeldecker</b>	<b>Election Judge</b>	<b>\$ 120.60</b>
<b>PERA</b>	<b>Payroll Period 3-1-2014 to 3-31-2014</b>	<b>\$ 582.53</b>
<b>Internal Revenue Service</b>	<b>April 2014 Deposit</b>	<b>\$ 936.28</b>
<b>Colette Mumm</b>	<b>Payroll Period 3-1-2014 to 3-31-2014</b>	<b>\$ 701.18</b>
<b>Linda Wilson</b>	<b>Payroll Period 3-1-2014 to 3-31-2014</b>	<b>\$ 2,085.35</b>
<b>Pete Storlie</b>	<b>Payroll Period 3-1-2014 to 3-31-2014</b>	<b>\$ 64.64</b>
<b>Nanett Sandstrom</b>	<b>Payroll Period 3-1-2014 to 3-31-2014</b>	<b>\$ 512.59</b>
<b>Total Bills Presented:</b>		<b>\$30,559.10</b>

A motion was made by Supervisor Kenny Miller to approve the Disbursement Register and Claims List. Motion seconded by Cory Behrendt. Roll call vote was taken on the motion: Kenny Miller – aye; Brian Budenski – aye; Steve Madden – aye; Cory Behrendt – aye. Mark Ceminsky- recuses. Motion passes.

The following receipts were received in March

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**Local Permits**

**Tami Johnson– Building Permit #14-02 -\$1,301.75**  
**Chad Harmer – Building Permit #14-03-\$6,348.77**

**Mark Ceminsky-Application Fee \$25.00**  
**Donovan Palmquist-Building Permit #14-04**  
**\$404.10**

**Other Receipts:**

**Terri Petter – CD Copies \$20.00**  
**Interest on CD - \$184.32**

**Interest Saving Account - \$1,053.52**  
**Interest on CD-\$249.41**

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**TOTAL RECEIPTS AS OF March 31, 2014      \$9,586.87**

The Town Board reviewed the remaining Financial Reports –Bill & Receipts prepared by Nanett Sandstrom. Supervisor Kenny Miller made a motion to accept the Receipts Register and Current Investments as reported. Motion seconded by Supervisor Steve Madden. Motion carried by unanimous vote.

**Budget**

Supervisor Cory Behrendt reported Snow removal budget is over budget by \$20,000 for the year, building inspector inspection fees are three quarters of the way and township administration costs are a bit higher. Chad Lemmons agreed to break out the attorney bills by individual case. Supervisor Ceminsky reported that through the road right of way permits and road maintenance the Township took in \$237,719.62. Expenses were \$224,359.26, which netted the Township \$13,360.00.

**Audit**

A motion was made by Supervisor Kenny Miller to accept the 2013 annual audit by CliftonLarsonAllen for the Townships financials. Motion was seconded by Mark Ceminsky. Motion carried by unanimous vote. Cory Behrendt abstained.

**Road Contractor**

Mark Henry, Road Contractor was present to report on the current road issues. Mr. Henry is patching, filling pot holes, grading and filling in the gravel. The CapX roads are rutty and they may need several gradings. Supervisor Brian Budenski will work with Supervisor Mark Ceminsky to finish up the CapX permits and any issues outstanding.

**Outstanding Invoices**

Nothing address by the Board.

**Open Building Permits**

The Linda Wilson, Clerk the current building inspector, Darrel Gilmer are reviewing the permits and addressing inspections.

**Great River Energy**

No one in attendance to report.

### **Building Inspector Contract /Commercial Inspector**

Supervisor Cory Behrendt reviewed the process that was implemented for the RFP, the extension of time given to respond to the RFP and what was presented at the Board meeting from Darrel Gilmer and MNSPECT. The ordinance for code enforcement states we use one person for inspections not multiple.

Darrel Gilmer was present to finalize a contract proposal presented to him to assume the responsibilities of Township building inspector. The Township is having conversation with a new commercial inspector, Gary Staber, Municipal Inspections Inc. to be contracted with the Township. The commercial inspector will contract and act along, not under Darrel Gilmer but will have a title of Deputy Inspector for Commercial. Attorney Chad Lemmons will draw up a contract for Gary Staber and add an addendum to the current contract for Darrel Gilmer.

A motion was made to accept Darrel Gilmer's contract for building inspector and sign tonight. Motion seconded by Brian Budenski. Supervisor Mark Ceminsky modified his motion to say the contract for Darrel Gilmer be accepted tonight and signed and an addendum page that spells out the additional duties be signed by Supervisor Kenny Miller and Darrel Gilmer at a later date. Supervisor Brian Budenski re-seconded the motion. Motion carries by unanimous vote.

A motion was made by Supervisor Mark Ceminsky to hire Gary Staber as the Deputy Commercial Building Inspector with the contract to be finalized, motion withdrawn. Mark Ceminsky restated a new motion to hire Gary Staber as Deputy Building Inspector in charge of Commercial Inspections with the contract to be typed up by attorney Chad Lemmons and presented for signatures by the Chair and Gary Staber on Thursday the 17<sup>th</sup> of April. Motion seconded by Brian Budenski. Motion withdrawn for second time. Supervisor Mark Ceminsky stated a new motion to hire Gary Staber as Deputy Building Official with commercial responsibilities for the Township of Eureka for a period of one year with a renewable 1 year contract with the provisions that states his job as stated in our RFP and for our attorney Chad Lemmons to draw up a contract with those provisions in it and for our Chair Kenny Miller and Gary Staber to sign on Thursday, April 17<sup>th</sup>. Motion carries by unanimous vote.

### **Ordinance 2, Chapter 2, Section 1 - and Ordinance 2, Chapter 2, Section 5 with a change to the ordinance for the separation of the Clerk and Treasurer Position**

The Board reviewed the ordinance document drawn up by attorney Chad Lemmons.

A motion was made by Supervisor Kenny Miller to amend the ordinance book Ordinance 2, Chapter 2, Section 1 and Ordinance 2, Chapter 2, Section 5 with ordinance amendment # 2014- ----- the next number found by the Clerk. Motion seconded by Cory Behrendt. Motion carries by unanimous vote.

### **Town Clerk & Town Treasurer**

Supervisors Kenny Miller and Mark Ceminsky reviewed the applicant resumes and interviewed several candidates. They presented two candidates to the Board for hire. They selected Barbara North for the Clerk position and Marcia Wilson for the Treasurer position.

A motion was made by Cory Behrendt to appoint Marcia Wilson as the town Treasurer and Barbara North as the Town Clerk. Motion was seconded by Mark Ceminsky. Motion carries by unanimous vote. Attorney Chad Lemmons suggested that the appointments of the Clerk and the Treasurer on a separate motion.

A motion was made by Cory Behrendt to appoint Barbara North as the town Clerk. Motion was seconded by Kenny Miller. Motion carries by unanimous vote.

A motion was made by Cory Behrendt to appoint Marcia Wilson as the town Treasurer. Motion was seconded by Mark Ceminsky. Motion carries by unanimous vote.

**Review of agenda schedule and the time: A motion was made by Cory Behrendt to move to the table the Highview Christiana Lutheran church Permit and then return to the agenda. Motion seconded by Kenny Miller. Motion carries by unanimous vote.**

### **Land Use & Zoning Permits**

**Myrna Martin, Treasurer from the Highview Christiana Lutheran Church 26690 Highview Ave .** was present to represent the building permit application for a garden shed. The Planning Commission made recommendation to the Board to approve the permit based on an inspection by the building inspector. Darrel Gilmer inspected and set the fees for which he would like to waive the plan review fee. The Board agreed to waive the plan review fee and final fees to be collected will be \$310.00

A motion was made by Supervisor Mark Ceminsky to approve the permit application for the garden shed for Highview Christiana Lutheran Church PID # 13-02800-51010 at 26690 Highview Ave. W. Motion seconded by Kenny Miller. Motion carries by unanimous vote.

### **Planning Commission Member Candidate Interviews & Selection**

Four candidates were interviewed for a position on the Planning Commission. Carrie Jennings and Fritz Frana reapplied for a position and two new candidates applied, Phil Cleminson and Robert Fredrickson. Each candidate gave a short bio and answered questions from the Board. The members voted by secret ballot for the candidates, two seats to fill. The Clerk read the votes off - Seat 1 vote was 2 for Carrie Jennings and 2 for Phil Cleminson and 1 for Fritz Frana. The Board took a second vote, Carrie Jennings received 3 votes and Phil Cleminson received 2 votes. Carrie Jennings was appointed to Seat 1. Board members voted for Seat 2, Phil Cleminson received 3 votes and Fritz Frana received 2 votes. Phil Cleminson was appointed for Seat 2. Attorney Chad Lemmons suggested that the ballots be saved.

A motion was made by Supervisor Mark Ceminsky to accept Carrie Jennings for Seat 1 and Phil Cleminson for Seat 2. Motion seconded by Cory Behrendt. Motion carries by unanimous vote. The Board thanked everyone who applied for the Planning Commission positions.

### **Planning Commission Update**

Planning Commission Lu Barfknecht gave a summary for the Board of the building permits for Highview Christiana Lutheran Church for a garden shed; a building addition for Mark Ceminsky for his garage and existing barn; and a picnic shelter for Mark Parranto. Daniel & Char Adlemann were back to review a building right and Paul Ulmen presented a building right/cluster and a building permit for a new home.

Commissioner Barfknecht asked the Board what the status was of the move-in ordinance draft language that was presented to the Board and how they were to proceed. The Commission recommended the approval of the CUP for the Living Water Church.

## **Land Use & Zoning Permits (continued)**

**Paul & Monica Ulmen** – building right transfer cluster – Paul & Monica Ulmen were present to represent their application for a building right transfer (cluster) for a property purchased to build a new home. Questions on the payment of the attorney fees, who would pay, were they authorized fees, the Township would not be responsible for the fees they would be passed on to the applicant.

A motion was made by Supervisor Mark Ceminsky to accept the application for building right transfer cluster for Paul Ulmen PID # 13-01600-26-015, parcel PID# 13-01600-26-018, parcel PID# 13-01600-26-017 and parcel PID # 13-01600-26-012 and to approve with the passing on of the attorney fees of \$519.75 on to the applicant. Motion was seconded by Cory Behrendt. Motion withdrawn.

Chad Lemmons added that it should be made clear that transferring that parcel is permanently giving up that right and the building right assignment and release form presented leaves that a bit vague and needs to be clarified. He is recommending that the Board approve this with the execution of a new building right release which indicates that the right is given up permanently subject to the terms of the assignment which is that of the transfer. If he is not using that right it can be reopened. Mr. Lemmons offered to draft the form at no charge. The document would then need to be resigned by Mr. Nielsen and Mr. Lemmons would contact the attorney regarding the document.

A motion was made by Supervisor Mark Ceminsky that the Board approves the residential building right transfer cluster application for Paul Ulmen, PID# 13-01600-26-015 which includes the second parcel PID# 13-01600-26-018, third parcel PID# 13-01600-26-017 and the fourth parcel PID # 13-01600-26-012 with pass through attorney fees of \$519.75 along with a letter from our attorney to Mr. Nielsen in regards to the assignment and release and transfer of the building right to Mr. & Mrs. Ulmen and that he realizes that he has given up the building right. Motion seconded by Cory Behrendt. Motion carries by unanimous vote.

A motion was made by Mark Ceminsky to approve the building permit application for Paul & Monica Ulmen PID # 13-01600-26-015 for a single family residential. Motion seconded by Cory Behrendt. Motion carries by unanimous vote.

**Mark Parranto 22702m Hamburg Ave.** - Mark Parranto was present to represent his permit to construct a picnic shelter. The Planning Commission reviewed his application and no determination or recommendation could be determined. Would this structure be allowed and what type of structure would it be, an agricultural building or accessory building. After discussion and clarification from the attorney it was determined that Mr. Parranto could resubmit his application as an agricultural building which is exempt and would not need approval by the Planning Commission or Town Board; an over the counter permit could be issued. The Township advised Mr. Parranto that an accessory use or ag building were permits that were available and could be applied for. He could apply for an Ag building permit if that was consistent with the use.

**Mark Ceminsky 7226 235<sup>th</sup> St. W.** – Mark Ceminsky was present to represent his application for an addition to his existing barn and existing garage/house. Mr. Ceminsky presented all document and plans and answered the Board's questions. The Board advised Mr. Ceminsky to submit two separate applications, one for the existing barn and one for the garage/house, one permit fee and two separate plan review fees.

A motion was made by Cory Behrendt to approve the two building requests on parcel PID# 13-01000-020-50, for the two building requests on the application, one for the addition to the residence and one for the accessory

building as presented. Motion seconded by Brian Budenski. Motion carried by members voting. Mark Ceminsky recused himself.

**David Cook 24485 Denmark Ave. – Lot Split**

Mr. Cook was present to get a recommendation from the Board if he should hold off on the lot split until he can decide if he wants to build on the sight he had identified. Tabled until May. Mr. Lemmons met with Mr. Cook to discuss the 60 day rule written waiver.

**CUP Reviews**

**Mark Nelson 5255 265<sup>th</sup> Street. – Airstrip**

Mark Nelson was present to represent the CUP review for his airstrip. Fee was paid, no comments from the floor, the public had no issues. A motion was made by Cory Behrendt to acknowledge the CUP of Mark Nelson's airstrip on April 14, 2014. Motion was seconded by Mark Ceminsky. Motion carries by unanimous vote.

**Glory to Glory Christian Center – No one was present**

**Terri Petter – Spirit Ranch I & II, Renew dog kennel license**

Terri Petter was present to represent her review of the Spirit Ranch I and Spirit Ranch II. No complaints have been received relating to Spirit Ranch I & Spirit Ranch II. The floor was opened for public comments. There were none.

A motion was made by Cory Behrendt to acknowledge the review of the separate CUP, one for Spirit Ranch I and one for Spirit Ranch II. Motion seconded by Mark Ceminsky. Motion carried by unanimous vote.

A motion was made by Cory Behrendt to renew the dog kennel license for Terri Petter with no public comments or questions.. Motion seconded by Mark Ceminsky. Motion carries by unanimous vote.

**Public Hearing Conditions and Finding of Facts – Living Waters Church**

Melanie Smith representing the Farmer Mac/AgStar and & Pastor Scott Peterson from Living Waters Church were present to obtain the approval of the conditions and findings of fact from the Public Hearing and Planning Commission meeting recommendations.

A motion was made by Cory Behrendt to adopt the findings of fact as presented by the Planning Commission regarding the Living Waters Church application for the conditional use permit. Motion seconded by Supervisor Mark Ceminsky. Motion carries by unanimous vote.

A motion was made by Supervisor Cory Behrendt to approve the conditional use permit for the Living Water Church with the conditions that have been presented from the Planning Commission of their Public Hearing date of March 27, 2014 letter (a) through (o) to be completed on the traditional conditional use permit form to be submitted. Motion seconded by Supervisor Mark Ceminsky. Motion carries by unanimous vote.

The Chairman recessed the meeting at 10:05pm for a short break.

The Chairman resumed the meeting at 10:10pm.



**Joe Miller -22260 Dodd Blvd.** – Joey Miller was present with his attorney Carol Cooper to address issues of the use of his property. Ms. Cook presented documents to the Board and an explanation of previous documents. There was an extensive discussion with attorney Cooper, attorney Chad Lemmons, and attorney Daniel Beeson and Board members and their individual interpretation of the use of the property previous and present. The question is has there been a discontinuation of use for more than a year and has the use been changed.

At the February 10, 2014 Town Board meeting Nancy Sauber, 9445 225<sup>th</sup> St.. W. Lakeville and Timothy Kuntz , husband and attorney with LeVander, Gillen & Miller law firm in S. St. Paul who also resides at 9445 225<sup>th</sup> St. W. Lakeville addressed the Board regarding the land use at Joe Miller's property 22260 Dodd Blvd. and the illegal uses being conducted in the accessory buildings at the 22260 Dodd Boulevard property. Nancy Sauber presented to the Board, ordinance excerpts and pictures for the Board to review as well as documentation from Attorneys LeVander, Gillen & Miller and her written comments to be made part of the public record.

Daniel Beeson was present in Mr. Kuntz's absence, an attorney with LeVander, Gillen & Miller law firm representing Nancy Sauber and Timothy Kuntz. Mr. Beeson addressed the Board regarding the land use at Joe Miller's property. He spoke that the use of the accessory buildings for commercial office use is illegal, is prohibited by the Eureka Township ordinance. 1. Prior non-conforming use the race team uses is expired. 2. This commercial use cannot be considered home occupation 3. Neither the Eureka ordinance nor the state statute authorizes substitution or change of use.

Chad Lemmons summarized some options for the Board - Option 1. You can only grant a conditional use permit if it falls underneath Chapter 2 Section 1, C - if Mr. Joey Miller proposes a use that falls under those conditions or uses but so far he has not. Option 2 - If you find this to be a permitted non-conforming use then you can allow the use to continue. Option 3 – If you find it that the existing non conforming use and the racing team as ceased for more than a year then you are compelled to deny his application. The Board determined that more discussion was needed and extension for more time and additional agenda items needed to be addressed.

### **Set new meeting date & Time for Town Board Meeting Continuation**

A motion was made by Kenny Miller to continue this meeting, this portion of this meeting at a future time after the Board has had a chance to review with our attorney how they may apply to our ordinances and see which of our ordinances may apply. Motion seconded by Steve Madden. Motion carries by unanimous vote.

A motion was made by Mark Ceminsky that they consider this issue and this issue only at a separate date. Motion was seconded by Steve Madden. Supervisor Miller amended the motion to address the remaining Town Board agenda on the same meeting determined to be April 22, 2014 at 7:00pm. Mark Ceminsky rescinded his motion. Kenny Miller made a motion to recess the meeting until April 22, 2014 at 7:00pm. Motion carries by unanimous vote. Clerk will repost the remaining agenda items and continuation of Joe Miller item. Time 11:20

Supervisor Miller reopened the current meeting to address the Newsletter, 11:21pm

### **Newsletter**

Jody Arman-Jones addressed the Board and went through the articles in the draft and additional things needed to complete her copy. Jody will make adjustments to the articles and send a completed draft for review.

A motion was made by Kenny to recess the meeting. Motion seconded by Steve Madden. The Town Board meeting went into a recess at 11:30pm. Town Board will hold remaining agenda items in a continuation meeting on Tuesday, April 22, 2014 at 7:00pm

### **RECESSED TOWN BOARD MEETING RESUMED ON TUESDAY, APRIL 22, 2014 7:00PM**

#### **Call to Order**

Vice Chairman Kenny Miller called the recessed April 14, 2014 Eureka Town Board meeting to order at 7:00pm. Members present were Supervisors Brian Budenski, Mark Ceminsky, Steve Madden, Cory Behrendt and Kenny Miller. Deputy Clerk Linda Wilson was present to record the minutes and new Clerk Barbara North observed. Township attorney Chad Lemmons was present. See attached sheet for additional persons in attendance.

#### **Approval of Agenda**

H. Employee Review date - there will be none; accept Linda Wilson's resignation  
New Business add: D.- Town Hall Construction Process , add: E. Resolution 59 & 64

A motion was made by Supervisor Mark Ceminsky to accept the amended agenda. Motion seconded by Brian Budenski. Motion carries by unanimous vote.

#### **Joey Miller Discussion continuation**

The discussion reconvened on Tuesday, April 22 with attorney Timothy Kuntz representing himself and wife Nancy Sauber and attorney Carol Cooper, representing Joey Miller both addressing the Board reviewing previous testimony. Supervisor Cory Behrendt recapped the history of meetings and statements that had been presented from past years up to the present time.

Supervisor Steve Madden made a motion to table until the May meeting and give Mr. Miller a chance to respond one way or another. Chair Kenny Miller asked three times for a second, No second on motion. Motion failed.

Attorney Chad Lemmons suggested to the Board that he could prepare the finding of facts. If the Board determines this is a legal non-conforming use or an illegal use there should be a finding of facts and they could be adopted at the May meeting.

A motion by Supervisor Mark Ceminsky that we consider the racing as a legal non-conforming registered use and will allow Joey Miller 90 days to make application for an alteration of use, he would have to follow all the subjects under "D" in our ordinance under registered non-conforming go through a public hearing to change his use and apply for any permits that weren't applied for correctly at the time. Motion seconded by Supervisor Steve Madden. There was a discussion with Board members and attorneys. Mark Ceminsky restated his motion to accept the race as legal non-conforming registered business and allow Joey Miller 90 days to make application for alteration, at the end of the 90 days if he hasn't made application for alteration they we consider it a non legal business and we issue a cease and assist order and we also tell Joey Miller he needs to file for all permits that were necessary for changes he made in the building. Supervisor Steve Miller re-seconded the motion. Discussion with attorney Chad Lemmons. Supervisor Mark Ceminsky withdrew his motion.

Supervisor Mark Ceminsky made a new motion that we accept the race team as a legal non-conforming use for Joey Miller's property and we give him 90 days to make application for alteration if he so chooses. Supervisor Steve Madden seconded the motion. Motion fails by 3 to 2 vote.

Supervisor Cory Behrendt made a motion to recognize that a registering non-conforming use was filed for Country Joe Racing at 22260 Dodd Blvd. all other uses not deemed legal must cease. Zoning and building permits shall be brought into compliance per existing communications with Joey Miller within 90 days or significant progress must be made must be shown. If compliance is not achieved or significant amount of progress completed Eureka Township shall commence action to achieve compliance with Eureka Township ordinance. Chair Kenny Miller asked three times for a second to the motion. Motion fails with no second.

Supervisor Kenny Miller made a motion to accept the Joey Miller racing operation as a registered non-conforming use and allows him to apply for an alteration of the registered non-conforming use in 90 days. If he does not take this action or any other action, the other use must cease or we will take legal action. Motion seconded by Supervisor Mark Ceminsky. Motion passes by 3 to 2 vote.

**On 4/22, continued board meeting from 4/14, I, (Cory Behrendt) voted nay on the vote regarding Joey Miller property use. Please include the following in support of my nay vote. *here has been no request for alteration or expansion for the registered non-conforming use and there has been no request for changes to the zoning ordinance from the property owner. Furthermore the nature and character of the homebuilding business is completely different than a race car business. There is no resemblance of the race car business in the home building business; especially since the race car business was sold and moved well over a year ago. Therefore, I think the townships course should be to deal with the issue that is fa ctually before us. It is not the townships place to compel a propertyowner to pursue an action that may or may not change the issue that a business was moved into the township and construction has been done without necessary permits. The property owner had almost 2 years to pursue this course of action and has not. During that time he has made statements that he believes he has not done anything on the property which requires permits or consideration from the Township. However, I do agree with providing the property owner 90 days to progress toward compliance or pursue proper legal action.***

Supervisor Cory Behrendt will compile his notes and work with the Township attorney to draft a finding of fact to support the Township position and present them at the May Town Board Meeting.

### **Quotes & Bids**

The Board reviewed the Township's needs and it was determined to contact previous companies for quotes. Dust coating needs will increase for 2014 to include Highview and 235<sup>th</sup> Street, and Town Hall lawn maintenance should include snow removal.

A motion was made by Supervisor Cory Behrendt to post for quotes for Dust Control adding additional mileage and volume, per gallon price, Gravel – Class 5 and Limestone for per ton price and Town Hall maintenance to also include snow removal at the Town Hall. The soliciting of quotes for Road Contractor will be published in the legal ad in the newspapers. Motion was seconded by Supervisor Mark Ceminsky. Motion passes by unanimous vote. Supervisor Miller will look into the lawn maintenance and snow removal for the Township.

### **Illegal Dumping**

The Township already has a policy for illegal dumping; the Board felt no need to revise that policy.

### **Commercial Building Inspector Exhibit Fees**

A modification of the fees to add Exhibit C.- modifies the percentages of the fees that the Township collects.

A motion was made by Supervisor Cory Behrendt to accept Exhibit C - costs to municipality for services addendum for the commercial building inspector. Motion seconded by Supervisor Mark Ceminsky. Motion carries by unanimous vote.

### **Ordinance Review Follow Up**

Kelly and Lemmons have been working on the Township ordinances. Mr. Lemmons reported that the review was complete.

### **Old Town Hall Parcel**

The Board had a discussion of selling the town hall lot for \$45,000. There is currently a building right on the property. Does the Township want to separate the building right from the land, sell the lot as a whole, approach the neighbors to see their interest? Property is currently not listed with a real estate group.

A motion was made by Mark Ceminsky to look at all offers for purchase of the property and the building right. The posting of information can be posted in the Township Newsletter or the Township website of the Eureka Township property is For Sale.. Motion was seconded by Steve Madden. Motion carries by unanimous vote.

### **Employee Review/ Linda Wilson's Resignation**

A motion was made by Brian Budenski to accept the letter of resignation from Linda Wilson dated April 7, 2014. Motion seconded by Mark Ceminsky. Motion carries by unanimous vote.

### **IT Update**

Supervisor Cory Behrendt gave an update of where Buds and Bytes is with the township computers and cleanup process and new implementations needed.

A motion was made by Supervisor Mark Ceminsky to have Cory Behrendt continue to work with Buds & Bytes to move forward with the program outlined. Motion seconded by Brian Budenski. Motion carries by unanimous vote.

### **Dodd Blvd. – Windbreak**

Brian Budenski will contact the County to discuss drifting issues on Dodd since the reconstruction to see if they would consider putting in a windbreak.

### **Document Destruction**

Tabled.

### **Mail Delivery**

Supervisor Kenny Miller will research a mail receptacle and the delivery of the mail for the Township.

### **VRWJPO**

Eureka is the only Township that is administrated by the Vermillion water shed and the County spent \$8,000. Supervisor Ceminsky indicated that the County would like the township to take back the responsibility of permitting. The discussion presented issues of the complexity of administering, who will initiate the process, fees. Mark Ceminsky will do more research and discuss the process with the current building inspectors to get their impute. Tabled to continue at the May meeting.

## **Ordinance 2, Chapter 2, Section 1 & 5 Summary Document**

The ordinance needs to be posted in the legal section of the paper and the document will be summarized. The Board needed to make approval of the posting document.

A motion was made by Supervisor Kenny Miller to accept the summary document for posting. Motion seconded by Brian Budenski. Motion carried by unanimous vote. Posting to be published in the This Week and Dakota Tribune.

### **Public Comment – Mark Ceminsky**

Mark Ceminsky – 7226 235<sup>th</sup> St. W. addressed the Board asking for a response from his February 10, 2014 letter he presented to the Board. He had asked to hear a response from the Board by March 19, 2014, when can he expect a response. Planning Commission member Carrie Jennings has publically made untrue statements, and the Board needs to address this matter. The Board will bring up the issues at the Round Table Meeting in June, the proper conduct that all members of the Board and the Commission should be engaging in. Cory Behrendt will research the proper conduct policy to address at the Round Table Meeting.

### **MNSPECT Billing**

The Board approved the claim for the billing that MNSPECT presented in February. The charges relating to Ron Enright will be researched to bill back to the applicant.

### **Minutes**

#### **Town Board Meeting of March 10, 2014**

A motion was made by Supervisor Brian Budenski to approve the March 10, 2014 Town Board minutes as presented. Motion seconded by Supervisor Mark Ceminsky. Motion carries by unanimous vote. Supervisor Steve Madden absent from vote. Cory Behrendt abstained.

#### **Board of Canvass March 13, 2014**

A motion was made by Supervisor Kenny Miller to accept the March 13, 2014 Board of Canvas minutes as presented. Supervisor Mark Ceminsky seconded the motion. Motion carries by unanimous vote. Cory Behrendt and Brian Budenski abstained. Steve Madden absent from the vote.

#### **Reorganizational Meeting minutes March 25, 2014**

Correction: November 10<sup>th</sup> 2014 is a Monday not a Tuesday.

A motion was made by Supervisor Kenny Miller to accept the minutes from the Reorganizational meeting on March 25, 2014 as corrected. Motion seconded by Brian Budenski. Motion carries by unanimous vote. Steve Madden absent from the vote.

**Supervisor Steve Madden left the meeting at 9:30pm.**

#### **Test Amendment to Ordinance 2, Chapter 6**

Already discussed and completed.

#### **Ordinance Change – Carrie Jennings**

Carrie Jennings has proposed a change to Section 7-Standards for Accessory Uses or Structures, part C. and to Chapter 2: Zoning Districts, Section 1-Agricultural Districts, B. permitted Uses and Structures.

Town Board meeting minutes 4-14-2014 & 4-22-2014

A motion was made by Supervisor Mark Ceminsky that we do not change Ordinance 7-Standards for Accessory Uses & Structures, Part C., putting down her request. Motion seconded by Supervisor Kenny Miller. Chad Lemmons stated that the Planning Commission is to propose changes to the ordinances not an individual. Motion carries by a 3 to 1 vote.

Commissioner Butch Hansen stated for the record that Carrie Jennings did not make the Planning Commission aware of this action she was taking. The Planning Commission did not authorize this to come before the Board.

A motion was made by Supervisor Mark Ceminsky that we turn down the change to Chapter 2, Zoning Districts, Section 1-Agricultural District, Permitted Uses adding Private art studios (no sales from site, no employees). Motion seconded by Brian Budenski. Motion carries by unanimous vote.

### **Security Scan**

Supervisor Kenny Miller will research further.

### **Town Hall Construction Process**

A motion was made by Supervisor Mark Ceminsky that the Township moves forward with the construction on the storage building, permit is ready to be issued by the building inspector. Motion seconded by Supervisor Kenny Miller. Motion carries by unanimous vote.

### **Resolutions 59 & 64**

There were resolutions in # 59 that changed several ordinances; minutes from the time resolution #59 was enacted cannot be found to see what the changes were. It appears that resolution #59 wasn't accepted until resolution 69. Mark talked with MAT and they indicated the ordinances cannot be changed through resolutions, a public hearing must be held. If this had been done those ordinances would not be in effect and the Township would have to revert back to the ordinance prior to the resolution.

Attorneys Chad Lemmons and Jerry Filla will review the resolutions and then provide the Township with their opinion of what procedure to do next. Add this to the May meeting for follow up.

A motion to adjourn the meeting made by Brian Budenski. Motion seconded by Kenny Miller.

Meeting adjourned at 9:50pm