

REGULAR EUREKA TOWN BOARD MEETING, February 12, 2015

The regular meeting of the Town Board of the Town of Eureka was called to order by Chairman Gene Krull at 6:20 pm on Thursday, February 12, 2015, at the Town Hall.

Proper notice was given as the agenda was posted in the four designated locations of the Town Hall, Town Garage/Clerks Office, EdgeTown Tavern, and River Roads Wolf Creek Bar on February 11, 2015. A notice was posted in the Tri-County North Advertiser.

Present by roll call were Chairman Gene Krull, Supervisors James Johnson and Gary Gudmunsen. Also present Clerk Melody Jacobs and Treasurer David Anderson. Others present were Richard Nelson, Steve Jacobs, Carleen Matosky, Tim Knigge, Paul Schneider, Marvin Caspersen, Joanne ?, Jason Odgaard, Karyn Findlay, Jonathon Findlay, Bob Nissen, Randy Clark, and Public Works Employees Michael Woltz and Jim Hallgren.

Johnson/Gudmunsen **moved** to adopt the agenda; **motion carried**.

Gudmunsen/Johnson **moved** to approve the meeting minutes for January 8, 2015 (Regular Town Board Meeting); **motion carried**. The January 8, 2015, Town of Eureka Caucus Meeting minutes were presented to the Board as informational only.

Gudmunsen/Krull **moved** to approve payment of vouchers 15-019 through 15-058 amounting to \$91,808.10; **motion carried** on a unanimous roll call vote, 3-0.

The 2015 year-to-date budget summaries were reviewed.

Melody Jacobs reported she completed both the Milltown and Cushing Fire Department Self Certifications to receive the Fire Dues funds from the State for the Town of Eureka.

The treasurer's report was reviewed. Receipts for the period ending January 31, 2015 amounted to \$454,636.90; cash balance on January 31, 2015 was \$87,389.29. Building Account balance as of January 31, 2015 was \$97,869.70 and New Equipment Account as of January 31, 2015 was \$11,013.82.

Highway report: Publics Works Employee Jim Hallgren indicated one of the plow trucks will need a new windshield soon because of all scratches and it is eating windshield wipers. Mike Woltz stated Gene pretty much knows what is going on. Chairman Krull then stated one of the trucks engine are missing early in the morning, some of the fuel injectors are bad and need replacing, the plastic grill is broken and needs replacing, and a reservoir tank needs to be replaced. The truck frames and boxes will need repainting soon. Supervisor Gudmunsen stated when trees are down, he understands we need to just push them off until we can get back to them and cut them up. He stated the Town is liable if someone runs into them. He felt we need to get back to these in a timely matter and get cut up. He indicated he has brought this up before.

Mr. Krull gave the chairman's report: Chairman Krull spoke with Jeff Fuge, Polk County Corporate Council on Wednesday, February 11, 2015 about the 190th Street Address Tire. Mr. Fuge reported a Hearing was held on January 13, 2015 and the Nick Lysdahl plead not guilty. Mr. Fuge reported that the county has filed an amendment to current citations adding two violations of zoning regulations. The first being construction of a building without having a Land Use or Building permit. The second being us of that building as a commercial building as a commercial building without having commercial status. Mr. Fuge requested a Trial be set with a tentative date of March 13, 2015. Jeff Fuge stated the County is going to request an order of Cease and Desist on operation of the business and clean up should begin.

Chairman Krull gave an update on the New Town Hall construction progress. There is a bit of a glitch with the heating system. The approval for the heating system was never submitted by the builder to the State, so the builder is waiting in a hold pattern until the State approves. Carpet, flooring, and the coffee bar area have all been purchased under bid.

Chairman Krull reported there was a bid opening for the Old Town Hall and the selected bid was from EFD. The Town will now start preparing for sale of the property.

Citizen Comment Time: Paul Schneider stated he noticed the Town of Eureka Comprehensive Plan on the Town Website and he was wondering how often it is reviewed and by whom. Chairman Krull indicated the Planning Commission is the group that would meet and update the plan and they meet on an as needed basis. Krull indicated that it should be looked at again soon.

A gentleman stated is there a publication that gets put in the paper to announce the date and time of the Regular Town Board Meetings. The Board stated all the Regular Town Board Meetings are posted in the Tri-County North Advertiser, agendas are posted at four locations, and on the Town's Website. According to the Wis. Stat. the agenda must be posted at three locations at least 24 hours before the meeting. Gary Gudmunson indicated that we should reinvestigate the Advertiser Publications as some parts of the Town do not receive the Tri-County North Advertiser to see the meeting notices. Chairman Krull indicated this is something we should discuss at the next meeting as an Agenda item. Jim Johnson indicated he will investigate which Advertisers cover the Town.

A gentleman asked if it was normal to only get three bids for the Old Town Hall. Chairman Krull indicated we don't know what is normal.

Richard Nelson wanted to know if we received a legal counsel answer about the conflict of interest with Jim Johnson running as Chairman when his father-in-law works for the Town. As this was a question brought up for the Board to seek an answer too at the Caucus. Chairman Krull reported the Town did receive and answer back from the Wisconsin Town's Association which Chairman Krull read out loud: Firstly, there is no reason a person cannot run for office. Conflicts are always handled on a case by case basis if there is one. Second, unless one of these person's is financially supporting the other at least 50 percent there is no conflict under the statutes. s. 19.42. So there is no legal conflict if they are just maintaining their own households. Chairman Krull then reported he also asked the conflict question of the Town's Legal counsel which Chairman Krull read out loud: I agree completely with Lee Turonie from the WTA, that as long as he is otherwise eligible (over 18, lives in the town), he can run for office if he wants to, there is no law against that. If he wins the election, unless the father-in-law supports the son-in-law, or vice versa, there is no legal conflict of interest under state law that would automatically disqualify him. But if he uses his position as town chair to unfairly benefit his father-in-law, that might very well be a legal conflict – it's very case by case and fact specific. If the Town has its own ordinance that is stricter than state law that could play into this, but most towns don't have their own ethics ordinances. The other side of this is that even if there is no legal conflict, if the son-in-law wins, he should be very, very cognizant of the perception of a conflict of interest. He could easily face accusations of a conflict, even if there isn't an actual conflict. Sometimes the perception of a conflict causes harm, even if there is no actual conflict.

Chairman Krull indicated he has received ten Appointed Clerk Applications. He indicated that ten is too many to interview and felt the top five applicants with the top qualifications should be interviewed. Chairman Krull stated he would like at least Dave, Melody, and myself be the interviewers. Jim Johnson indicated he would like to be involved in the interviews. Gary Gudmunson said he didn't feel he should be involved since he won't be on the next Board. The dates decided by the Board to interview applicants at 6:00 pm would be February 18th and 20th at the Eureka Town Hall. This would be considered a Special Town Meeting with Closed Session as there will be two board members present.

Chairman Krull indicated Supervisor Johnson requested the Mike Woltz Gravel Pit item be placed on the Agenda. Chairman Krull asked Supervisor Johnson to elaborate. Supervisor Johnson indicated Mike Woltz would like to see the Town reclaim from the pits gate towards 190th. He would like the Town to pay the permit fees until all the Town's gravel is gone. Once the gravel is gone, Mike Woltz would take over full responsibility of the pit to include the rest of the reclamation and the permit fees. Supervisor Johnson estimates the reclamation for the Town would be six to eight thousand dollars. Chairman Krull stated it costs about \$3,500 per acre to reclaim a pit and the Woltz pit is 5.3 acres. Chairman Krull stated it wasn't budgeted to reclaim any pits at this time, so we can't take action this evening. He stated this something that should be tabled until the board meets to decide the next year's budget.

Chairman Krull stated the Town received a Statement from Scott Construction invoicing the Town for the remaining amount of \$10,000 from Invoice 95755. Chairman Krull indicated he sent Legal Counsel an email to get their advice if we should pay this. Last year it was determined by Legal Counsel the Town wasn't required to pay \$10,000 because of the error of Scott Construction on their contract. Chairman Krull read the response from Legal Counsel to the Board, stating the Town is not responsible for this error and the Town is not responsible for payment of the \$10,000. Legal Counsel sent an example letter that should be mailed to Scott Construction. Johnson/Gary **moved** to have the Town Clerk send a letter to Scott Construction with the wording that Legal Counsel indicated to be sent on the Town of Eureka's letterhead. Stating the Town has paid in full the amount according to the signed contract with Scott Construction and the Town of Eureka; **motion carried** on a unanimous roll-call vote, 3-0

Chairman Krull indicated Supervisor Johnson requested the Pension Plan and Benefits item be placed on the Agenda. Chairman Krull asked Supervisor Johnson to elaborate. Supervisor Johnson indicated he felt that he wasn't presented all the information to make a good decision about the State retirement system that was voted on in November for the Town employees. He stated he felt he was only presented the pros and not the cons of the program. Supervisor Johnson stated the plan requires a vesting of five years before you can collect full retirement benefits. Under five years the employee may only collect what he has contributed into the system with interest. He stated I hope you guys didn't know this when you brought this up. Supervisor Johnson stated he wanted to reverse his vote with a Resolution because everybody knew Mike wasn't going to be around for five years. Chairman Krull stated once you're in the program you can't get out. It is mandatory that all employees have to contribute and participate. Chairman Krull indicated he wasn't aware of the vesting as it wasn't mentioned in the packet the State referred him to review. The packet he was referred to was How to Become a Participating Employer Under the Wisconsin Retirement System, which was presented in the November Board Meeting information. Supervisor Johnson stated I wouldn't have voted yes for this pension if he would have known. Supervisor Johnson then proceeded to read the vesting information out of the Your Benefit Handbook for employees. This handbook was presented to the employees of the Town in January 2015 when the State retirement system was started for the Town, as voted on in November. Supervisor Johnson stated it's not fair to the employees. Supervisor Johnson reported that some of the other municipalities gave their employees raises to help offset the contributions the employees are required to make. Voices were raised and it was suggested by Supervisor Gudmunsen that it seems like this subject needs to be brought up at a different time because things are not going to get resolved tonight because emotions are too high. Some people in the audience also made a suggestion that this might need to be discussed a closed meeting. One person in the audience left and stated this is why he doesn't like to come to the meetings because of all the arguing and this. Chairman Krull stated this will have to be tabled for a later time or Special Meeting or Closed Session. Johnson/Gary **moved** to have a meeting on February 17, 2015 at 7:00 pm to discuss the Pension Plan; **motion carried**. Chairman Krull stated he will invite Legal Counsel to attend the meeting.

Chairman Krull informed the Board after speaking or emailing with the State DOT and Federal DOT agencies that all government employees are exempt from the Wisconsin DOT and Federal DOT Hours of Operation Regulations. Chairman Krull stated in Wisconsin entities that are not government affiliated have a limit of driving time and shall not drive more than 12 hours after 10 consecutive hours off duty. The Federal DOT limit of driving time for other than government entities have a limit of 11 hours after 10 consecutive hours off duty. Chairman Krull felt the Board should establish a policy of hours for our employees that is within reason. He reported he didn't feel that our employees should be driving a vehicle with a plow on it for 17 straight hours. He felt that is unsafe for them and the community. Chairman Krull stated the County policy is 16 hours on and 8 hours off. Gudmunsen/Krull **moved** that the Town of Eureka have a policy of 12 hours of driving and 8 hours off contingent upon hiring part-time employees; **motion carried** on a roll-call vote, Gene – Yes, Gary – Yes, Jim – No.

Johnson/Gudmunsen **moved** to pay \$16.50 per hour for on call Highway Maintenance Employees; **motion carried**.

Johnson/Gudmunsen **moved** to hire two qualified people to be on call as Highway Maintenance Employees; **motion carried**. Chairman Krull stated he will contact the names of the individuals that were mentioned as interested individuals.

Agenda Items for the Next Board Meeting – **March 12, 2015**

Discussion/Approval – **Publications of Meetings**

There being no further business, Gudmunsen/Johnson **moved** to adjourn the meeting; **motion carried** and the meeting adjourned at 8:02 pm

Minutes prepared by Melody Jacobs, Town Clerk