

Eureka Township

Dakota County

State of Minnesota

Special Meeting
November 17, 2004

Chair Don Pflaum called the Special Meeting of the Eureka Town Board to order at 7:03 p.m.

Town board members present were Don Pflaum, Kenny Miller, Connie Anderson and Dan Rogers Clerk/ Treasurer Nanett Leine to record minutes.

The meeting opened with the Pledge of Allegiance.

Agenda: Noise Complaint against Joe Miller Racing 22222 Dodd Blvd, Lakeville.

Prior to the Town board meeting Chair Don Pflaum was served with legal papers. These papers did not relate to the issue at hand, the content of the envelope was not revealed or discussed at this meeting. Copies will be sent to appropriate parties.

The issue of the noise complaint was to be addressed through a community forum so citizens could discuss and try to resolve the issue with Joe Miller Racing.

The town board has the responsibility to enforce Eureka Township Ordinances.
Zoning Ordinance No. 20, 8.13 Nuisance characteristics. This portion of the ordinance was read out loud.

Joe Miller Racing had not prepared a written plan as requested by the town board at the September 13, 2004 Town Board Meeting.

Country Joe Racing's Attorney stated that they will comply with State Laws on the amount of noise that can be emitted. They have done some experimenting with noise on the property; they are trying to be sensitive with the neighbors. They have been busy racing and have not had time to address the issues.

They have not checked into relocating the activities outside of the township as requested by the town board at the October 12, 2004 Town board meeting.

They presented the town board with copies of their letter stating they were unable to attend the November 8, 2004 Town Board Meeting.

Timothy Kuntz, an adjacent landowner to Joe Miller and an attorney representing himself, his wife Nancy Sauber, Pat and Arnold Sauber presented the following comments:

- Zoning of the property is Agricultural- use agricultural or residential.
- Use is auto racing car maintenance and repair facility. –This land use is a violation of the zoning. The neighborhood has been addressing this issue for the past 4 years.

- Registration Ordinance (5.5 Zoning Ordinance 20) does not apply to this site. It only applies to a use that was legal under the zoning law at the time they changed the law.
- Unauthorized, illegal use occurring on the site. Noisy.
 1. Property value diminished, because of the noisy illegal use.
 2. Under State law must inform any potential buyer of their property.
 3. Continue to complain, but without action.

First step: Immediate, non negotiable – stop the noise. At least put it inside the building, no outside noise activity. Stop the use of the go cart track for all activities. No use of pneumatic tools outside.

Step Two: Present to the land owner through the attorney an enforcement agreement that calls for ceasing the illegal operation of this commercial business in an agriculture residential zone.

The town board has repeated testimony over a period of time of objectionable noise/ nuisance. An off site location needs to be found for noise generating activities. The town board needs confront Country Joe Racing, come up with a plan for enforcement and follow through. The business is illegal and should not be allowed to continue.

Jim Sauber, an adjacent landowner. He stated disappointment that no information or plan has been presented by Country Joe Racing and that they brought an attorney tonight. The land owners have been very patient. This is a problem and it needs to be resolved. He would like to see details on what is being done to solve the problem and a delivery date when the problem will be resolved. He is asking the town board to enforce the ordinance, to make sure there is compliance to the ordinances.

Cory Behrendt had 2 concerns: If this is somehow considered a legal commercial business that started as a home business that was allowed to grow into a commercial business. Is it setting precedence for other in home use to expand? If they are considered a legal business, some how he is concerned that they feel they can operate to the legal limit of the noise statute. At that point the town board would need to try and enforce the noise legal limit.

Joe Miller Racing, attorney commented that they are willing to listen. They have an obligation to apply with the State noise standards. He said that the township cannot be stricter than the state noise standards.

The town board says it is not the noise level, it is a nuisance characteristic, and noise is one of the nuisance characteristics listed in the ordinance. It is not a State noise level standard. The issue is, it is affecting the neighbors.

Nancy Sauber, it was clear that a plan was to be brought to the October Town Board meeting. She fails to see that anything outside is going to be acceptable; it is a piercing, repetitive annoying noise. It is unknown if moving it inside is going to acceptable, they have not had the chance to experience that. They have been dealing with it for five years.

Supervisor Don Pflaum commented the main issue is the noise; there is the land use issue, whether it is non conforming use. The problem is the noise, if the noise is not there, then everyone could probably live together with this business. There are 3 noise generating activities: Dyno testing, pneumatic tools outside- pit stop practice and revving engines. Those 3 activities need to cease or you need to come up with some kind of plan to stop the noise. If

pneumatic tools are used inside and the shed is insulated, so they can not be heard outside, then it will not be a problem. A location off site needs to be found for pit stop practice.

Joe Miller racing has put an internal plan in place to try make noise at times that are least likely to be offensive to people. In the last year, they do not do engine dyno before 9:00 am or after 6:00 pm. Pit stop practices Tuesday and Wednesday 5-6:30 pm. On a rare occasion it has been outside of these hours. Dyno testing was less than 30 times in the last 9- 10 months.

Nancy Sauber said that there was times this summer that there was continuous engine noise from inside a building it could still be heard from her home it ran well past 6:30 pm. They are an illegal use, she shouldn't be hearing them at all, they should not be there, and they should not be allowed to continue there. There is no good time to hear the noise. She will not agree to any time that the noise will be allowed.

Supervisor Kenny Miller commented that they should be told to operate under the conditions of the original building permits for the site, until some kind of plan can be worked out and an agreement between the neighboring landowners and Joe Miller Racing.

Supervisor Don Pflaum commented: the fact that there is no plan tonight is not working to your benefit. It was clearly stated at previous board meetings that you had to come up with something substantial that the town board could consider, the town board has an obligation to follow the ordinances. The noise problem needs to be addressed. He made the following motion, due to the fact there is no plan tonight, due to fact that there is substantial public discontent of the activity. The ordinance states no noise.

A motion by Supervisor Don Pflaum: That Joe Miller Racing, be directed to cease dyno testing on the site, use all pneumatic tools inside, which would still allow the use of pneumatic tools for operation and maintenance of the vehicle, but no pit stops. Cease any testing or demonstration on the go cart track. It can not be used in any way or form for racing vehicles that generate noise. Motion seconded by Supervisor Connie Anderson. Motion Carried.

Amendment by Supervisor Connie Anderson: Effective immediately. November 17, 2004. The friendly amendment was accepted by Supervisor Don Pflaum.

Vote was taken, the motion carried by unanimous vote.

A motion by Supervisor Kenny Miller: To adjourn. Motion seconded by Supervisor Dan Rogers.

Meeting adjourned at 8:07 pm