

Eureka Township

Dakota County

State of Minnesota

Round Table Meeting of the Eureka Town Board and Planning Commission

December 20, 2007

Town board members present were Brian Budenski, Jeff Otto, Gloria Belzer and Cory Behrendt. Dan Rogers arrived at 7:09 pm.

Planning Commission Members present were Mike Greco, Sharon Buckley, Nancy Sauber and Ken Olstad.

Also present: Clerk/ Treasurer Nanett Champlain to record minutes and Township Attorney Patrick Kelly.

Audience attendance: Tim Kuntz

Call to Order

Vice Chair Jeff Otto called the Special Meeting to order at 7:03 pm.

The meeting opened with the pledge of Allegiance.

Agenda

Review proposed Ordinance changes with the Township attorney Patrick Kelly
CapX2020 Discussion

Ordinance Discussion

Ordinance discussion included Home Occupations and Non Conforming Use.

Home Occupations:

Need to determine that a home occupation is a permitted use in the agricultural zone.

Two approaches:

- Zoning: It goes with the land, such as a CUP.
- Licensing: subject to renewal, it only goes with the party.
 - Possible restrictions on the license:
 1. Hours of operation
 2. Square footage- limited to an area equal to 25% of the square footage of the residence. (In an accessory building, the area used can only equal 25% of the total square footage of the residence.
 3. Parking

Through permitted use the Township sets the standards. Does not limit the use, but you can regulate building use and hours of operation and parking.

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The attorney did not recommend granting home occupations as a conditional use permit.

Concerns included enforcement, outside storage, employees, noise issues, etc. These concerns can be addressed under standards. Retail may not be allowed under the standards.

The Township would need to inventory the existing home occupations. Some home occupations may not meet the standards. If a business meets the standards, then they can be licensed. A reasonable license fee needs to be established. The burden of proof of use lies with the operator.

Use of accessory buildings was discussed. The use of an accessory building would be limited to 25% of the square footage of the resident.

The attorney commented that there are standards for home occupations. It is important that the ordinance language is not ambiguous or vague.

Non conforming Use was discussed. Supervisor Gloria Belzer and Sharon Buckley will compile a list of all businesses that have filed for non conforming use.

Roundtable members agreed that home occupations should be allowed, licensing of home occupations would be the appropriate approach.

The Roundtable members were concerned with different scenarios such as a Contractor that stores tools at a property, but does not do business on the property or work parks work vehicles in an accessory building, or drives a work vehicle home and parks it in the driveway.

The attorney commented that driving a work vehicle home is not considered a home business. If you are storing oil, gas, etc. that relate to the vehicle, that could be a different use. A home occupation is additional impact on the residential character.

Non Conforming Use

The current language is ambiguous and vague. It needs to be clarified.

Legal, legal nonconforming if you look at the statute, it is the statute that made it nonconforming. If a business is legal then how can it be nonconforming? Nonconforming presumes at one time you were legal.

The Board needs to decide what the townships goal is for nonconforming, such as long time residences that have established business would be allowed to continue. Expansion- allowed? It could be allowed only in a commercial zone.

Possible proposed language from the attorney: A use will be presumed legally non conforming if it can be demonstrated by clear and convincing evidence, clear standard that prior to September 7, 2004 that the use was established, converted or enlarged to occupy presumed to permits issued at the time or it can be demonstrated by convincing evidence that the particular use existed

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continually for 20 years prior to December 31, 2004. (Dates and numbers are used as an example only)

Noise and nuisance are a concern with some existing businesses in the Township. Would it be practical to address these issues through the noise and nuisance part of the ordinance?

The ordinance needs to be clear, enforceable and defensible. There is always the issue of enforcement and how one might go about it.

The Township should have an inventory of all existing businesses. The Township needs to collect as much information possible to draft the new ordinance.

Sharon Buckley and Gloria Belzer will work on compiling a list of businesses in Township.

CapX2020

A strategy meeting has been setup by a citizen committee on CapX2020. The meeting date is Thursday, January 3 at Waterford Town Hall at 7:00 pm.

The Town Board discussed the possibility of becoming an intervening party. If the Township does not decide to become an intervening party at this time and another party becomes an intervening party, they can accept additional interested parties, such as the township under the umbrella of their intervening party. Any government unit that adds its weight and support behind an intervening party has more credibility to the intervening party.

At this time no decision was made on the townships role in support of the CapX2020 project.

Public Notice of the January 3rd meeting will be sent to the Township distribution list.

A motion by Supervisor Cory Behrendt: To adjourn. Motion seconded by Supervisor Dan Rogers.

Meeting adjourned at 9:37 pm.