

Eureka Township
Dakota County
State of Minnesota

Eureka Townboard Meeting February 10, 2003
Continued February 18, 2003

Call to Order:

Chair person Bev Topp reopened the regular monthly meeting of Eureka Township to order at 8:08 PM. Present were Supervisors Don Pflaum, Clark Smith, Kenny Miller, Connie Anderson and Treasurer Nanett Leine.

Non Conforming Use Ordinance

Treasurer Nanett Leine read the Town boards motion for the Moratorium on the Non Conforming Use Ordinance, as written in the unapproved minutes of Feb 1, 2003 Town board meeting. The wording was taken from the taping of that meeting.

Motion read as follows: To place a moratorium on Ordinance No. 32 for one year as of February 10, 2003, to create a new task force including three members that protect the way of life, three members that protect the quality of life and one impartial person running the meeting. A mandatory report from the task force in 6 months.

Chair Bev Topp asked the Township attorney to address the issue. A moratorium can only be done through an Ordinance and is not effective until published. (On land use items)

Supervisor Don Pflaum said his intension was to stop the process of applications and to take a new look at the Ordinance.

Supervisor Kenny Miller- he wanted to delay the final application date, to take input from residents of the Township, to carefully amend or change the Ordinance to make it clear to people. There are applications in the process; he thought that they would be allowed to complete their applications.

Supervisor Don Pflaum read the draft Ordinance as prepared by The Townships Attorney, Bob Bauer. He then read the resolution, prepared by Mr. Duffy, the attorney representing citizens of the Township.

Supervisor Don Pflaum feels that Mr. Duffy's document best reflects the intent of the motion he presented at the Feb. 10th Town board meeting.

Supervisor Connie Anderson disagrees Mr. Duffy was quoting the Non Conforming Permit procedures; we were discussing Ordinance No 32 Section B2, not 6.8 article B.

Supervisor Kenny Miller said we were addressing the time frame initially, then Don Pflaum's friendly moratorium for a task force. A moratorium was maybe a poor chose of words.

Chair Bev Topp- This was the third moratorium that the Township has done, every time it has resulted in a Ordinance like Mr. Bauer has presented. For the record it was clear that the motion stated a moratorium.

Chair Bev Topp asked the Town board if they wanted to open the discussion to public comments. The board agreed to open the floor to public comment.

Bill Cleminson- 27038 Highview Ave.

Read the definition of moratorium from the Webster Dictionary. He feels that the definition is being twisted around to stall the passing of the motion.

Mr. Bauer- If you are trying to stop the process, to study the matter the only way is through a moratorium.

The resolution only deals with enforcement, it does not stop the process, you would still need to take applications and deal with them. If you want to stop it, study it, put a task force on it to make recommendations then you need to adopt a moratorium. Moratoriums are adopted through an Ordinance.

With a Moratorium or a resolution you still need to accept applications and deal with them. Under a moratorium you have a basis on the face for denial, because you are studying the Ordinance. The purpose of the moratorium was to tweak the Ordinance to change a paragraph or two, to change some of the language.

Under the moratorium you must accept applications, but must deny the permit, because the moratorium is in effect. With the resolution, there is no basis for denial. We can approve permits. The resolution only deals with enforcement.

John Storlie- 23449 Dodd Blvd, Lakeville

The Ordinance should be stopped. The Ordinance needs to be studied. There are some things in the Ordinance that are not right. The business community is not trying to get rid of the Ordinance there are things in it that they will not accept, they are not right.

There are three options for applicants:

Withdraw, execute a waiver of the 60 days- a year in the future, move forward - the board permit or deny.

Mark Malecha- Planning Commission member

Under C item 3 you cannot amend the comprehensive plan.

Chair Bev Topp: You cannot amend the comprehensive plan which allows for commercial or industrial uses.

To clarify the motion from last week: Supervisor Don Pflaum would like to pass the following resolution This Ordinance shall not be enforced until March 10, 2004. During the time the Ordinance is not enforced the Town board shall appoint a committee of seven persons who shall review this Ordinance to ascertain whether or not this Ordinance requires any revisions or amendments. Said review shall be completed prior to the time application of the Ordinance is to recommence. Applications will be accepted upon completion of review of this ordinance. Existing applications will be held until the task force completes their study. All existing applications will not be subject to another public hearing. Motion seconded by Supervisor Kenny Miller.

Bob Bauer- The motion as stated will not work; all applications need to be dealt with within the 60 days. You must move to approve or deny. The applicant can execute a full waiver of the 60 days, but they are still in the system.

Butch Hansen- Highview Ave. Farmington

This is a simple issue, he disagrees with Mr. Bauer. This is a touchy issue. We need to take a step back and look at issue. We should take a serious look at Don's motion.

Mike Greco- Planning Commission Member

Could we add to Dons Motion that this resolution takes effect in 60 days, to deal with those in process, or those that want to apply?

Chair Bev Topp - Talked about a handout on procedural safeguards for Township Officers. It may seem that the Town board is delaying, it is nothing but the boards attempt to take care of your tax dollar. The Town board is trying to stay out of law suits or if we get into them to win. They are trying to save your tax money that is what you voted them in to do.

Bob Bauer- With the moratorium, you can delay publication to take care of applications pending.

You cannot say people cannot apply. Under the resolution a denial needs findings of facts as it applies to the Ordinance. Under the Moratorium denial is based on the moratorium, no finding of facts.

Bev Topp- a moratorium gives the Town board much more protection than a resolution with some of the issues that could arise. It does not hurt the business community in any way.

Butch Hansen- If a business applies and is denied, they cannot reapply for one year. The best thing for an applicant to do would be to with draw their application.

Bev Topp- Yes

John Storlie- Suggested that the Ordinance be repealed

Supervisor Don Pflaum- Maybe repealing the Ordinance would make sense. We have direction to examine the Ordinance.

Mark Malecha- How many people that are in the process and are present would be willing to withdraw?

Bob Bauer- Repealing the Ordinance is not the answer, would have to deal with the people that have been applied and has been granted

Wallace Murto- Thinking he would like to withdraw his application. He put the application in, in good faith and now it is not worth the paper that it is written on. At sometime it may be.

Bob Carlson- 5825 235th St

The idea of the Town board is to take a look at the Ordinance. If a business has been issued a permit under the current Ordinance, when changes are made to the Ordinance, would they apply to the people that currently hold a permit?

Bev Topp- If a business likes the new Ordinance better, they could reapply under the new Ordinance. The Town board would waiver the application fee.

Supervisor Don Pflaum would like to rescind his motion. To make a new motion as follows: To repeal the Ordinance, to refund the money to all applicants that applied, to nullify all previous Non Conforming Use Permits that have been or will be issued. There was no second. Motion dies.

Supervisor Don Pflaum: Would like to re introduce the original motion: This Ordinance shall not be enforced until March 10, 2004. During the time the Ordinance is not enforced the Town board shall appoint a committee of seven persons who shall review this Ordinance to ascertain whether or not this Ordinance requires any revisions or amendments. Said review shall be completed prior to the time application of the Ordinance is to recommence. Applications will be accepted upon completion of review of this ordinance. Existing applications will be held until the task force completes their study. All existing applications will not be subject to another public hearing. Motion seconded by Supervisor Kenny Miller. After much discussion and comments below a vote was taken: Supervisor Don Pflaum- yes, Supervisor Kenny Miller- yes, Supervisor Clark Smith- no, Chair Bev Topp- no, Supervisor Connie Anderson- no. Motion failed.

Supervisor Connie Anderson the moratoriums have worked in the past, the board is more familiar with them than a resolution. It have always served a good purpose, and to come up with a good product. What we want is to stop the procedure, take the time to review it. The moratorium serves that purpose. It allows us more time if it is needed. That way you will get a good product.

John Storlie- Could you write into the moratorium that if someone applied for the permit and were denied, that instead of a year's time, they could reapply in less than a year.

Bob Bauer- That is a different ordinance, Ordinance No. 20. It could be amended.

Bob Bauer- This issue is land use issue. The Ordinance becomes effective upon publication date. By adopting this resolution, what you are trying to do is a moratorium, without doing a moratorium. Still need to deal with every application that comes before you. You need to enact on the applications as the come.

A motion by Supervisor Don Pflaum: To repeal the existing Ordinance upon the competition of existing applications. Due to a lack of a second the motion died.

Supervisor Don Pflaum would like to add to the proposed moratorium, written by Bob Bauer: The Town board shall appoint a committee of seven persons who shall review this Ordinance to ascertain if the Ordinance needs any revisions or amendments and to remove C.(i) and C. (iii) from the proposed Ordinance. Motion seconded by Supervisor Kenny Miller. Discussion followed.

Kenny Miller-Questioned: C. (i) and C. (iii)-are they already covered under other Ordinances? Why are they there can we take them out?

Butch Hansen- Comment: the Town board can approve or deny any rezoning.

Connie Anderson- When the task force is setup guidelines will be established, such as a mandatory report in 6 months.

Bob Bauer- C. (i) is covered under other Ordinances, but not C. (iii).

Bev Topp- asked if there is anything the Town board can do to protect the citizens against problem businesses.

Vote taken on the motion. Supervisor Don Pflaum- yes, Supervisor Kenny Miller- yes, Supervisor Connie Anderson- yes, Supervisor Clark Smith- yes. Motion carried.

The moratorium will go into effect upon publishing. Soonest publishing date would be March 1st, 2003.

The Town board needs to deal with the March 10th, 2003 application date. There are people in the system that have applied after the deadline date. There are 7 businesses in process that apply after the application deadline.

A motion by Supervisor Clark Smith: to amend Ordinance No. 32 (Nonconforming Commercial Ordinance) modifying section B.2. extending the time limit for applications to be received and acted on. To adopt the Planning Commission's recommendation to extend the application date for Non Conforming Use permits to March 10, 2003. Motion seconded by Supervisor Connie Anderson. Motion carried.

Any applicants that wish to withdraw their application must do so in writing.

Envisioning Committee

Mike Greco presented the Town board with a tentative outline for the final report, a summary of the comments from the feedback forms from the open house and a short article from 1000 friends of Minnesota. The committee hopes to have the report done this spring. Mike would like to make a report at the annual meeting.

Escrow account for the bridge

Treasurer Nanett Leine presented the Town board with the total costs for the Highview Ave bridge project on the North border and the replacement culvert on 265th and Denmark. Total cost of the projects was \$12,237.91. The Township can request reimbursement of 50% of the cost. Eureka Township claims the sum of \$6,118.96 from the Dakota County board.

The cost of the Denmark Ave. culverts totaled \$19,741.95. The Township claims the sum of \$9,870.98 from the Dakota County Board.

A motion by Supervisor Don Pflaum: to approve the bridge/ culvert claims to the Dakota County board as presented. Motion seconded by Supervisor Connie Anderson. Motion carried.

Clerk and Treasurer Presentation

Maslon Edelman Borman & Brand Law Firm are representing a greenhouse operator that is looking for a site for a major new greenhouse facility. They were wondering if this would fit into the Township. A representative from the Law firm was unable to attend tonight's meeting. The Town board decided to put this on hold until they are able to speak with a representative.

The Dakota County Township Officers Association Annual and informational meeting will be held March 29, 2003 in Miesville.

A motion by Supervisor Don Pflaum: that the cost of lunch for those attending be paid for by the Township. Motion seconded by Supervisor Clark Smith. Motion carried.

A motion by Supervisor Don Pflaum: to approve Supervisor Connie Anderson attendance at the Watershed meeting. Motion seconded by Supervisor Clark Smith. Motion carried.

Treasurer Nanett Leine has registered with the Social Security Administration to use the Online Services. For reporting W-2, checking status of submissions and verifying social security numbers. (See attached letter.)

A motion by Supervisor Kenny Miller: To accept Treasurer Nanett Leine access to the Social Security Administration Business Services Online for Eureka Township. Motion seconded by Supervisor Connie Anderson. Motion carried.

Township receipts will be presented each month as part of 4. Bills and Checks, on the agenda. All receipts deposited from the prior month will be reported at this time. Any receipts received after the last day of the previous month will be entered into the next month's books.

Minnesota Association of Townships Insurance and Bond Trust- The Township needs to pass a resolution to participate in the Minnesota Association of Insurance and Bond Trust. Table till after annual meeting.

Bev Topp signed the PERA annual exclusion report.

Public hearing for Planning Commission Ordinance #33

Moved to March Town board Meeting

Annual Meeting Agenda

Envisioning Task Force- Mike Greco/ be ready to answer questions

Watershed- Connie Anderson- write up/ be ready to answer questions

Website- Mike Greco- write up/ be ready to answer questions

Roads- Clark Smith- what was done last year/ what is on the board for 2003. Railroad Bridge.

Approval of the Budget- Nanett Leine

Budget

Ordinances- Bev Topp

Commercial Task Force- Ken DeMaster- write up/ be ready to answer questions

Town hall Future Committee- Ollie Leine or Kenny Miller

Non Conforming Commercial- Bev Topp

New Market Fire Proposal- Kenny Miller

Location of next years meeting.

Castle Rock School has only about 40 chairs, no PA system. Supervisor Kenny Miller will try and obtain a PA System.

March 6th 7:00pm Preparation for Annual Meeting.

A motion by Chair Bev Topp: to amend the agenda, by adding Pole building Inspections- Ron Wasmund. Motion seconded by Supervisor Kenny Miller. Motion carried.

The Town board needs to decide how much to charge for pole building inspections on all non ag buildings. Ron would inspect the plan and perform 2 to 3 inspections. Inspect the poles, and the building. The Planning Commission would inspect the site. There is a liability to the Township if pole sheds are not inspected. Bev Topp will find out what is commonly done.

A motion by Supervisor Kenny Miller: To adjourn. Motion seconded by Supervisor Don Pflaum. Motion carried.