

Eureka Township
Dakota County
State of Minnesota

Eureka Townboard Meeting
March 10, 2003

Call to Order:

Chairperson Bev Topp called the regular monthly meeting of Eureka Township to order at 7:30 PM. Present were Supervisors Don Pflaum, Clark Smith, Kenny Miller, Connie Anderson, Clerk Oliver Leine and Treasurer Nanett Leine.

Meeting opened with the Pledge of Allegiance.

Approval of Agenda:

A motion by Supervisor Clark Smith: To approve the agenda, first order of business to be the Non Conforming Commercial Use Ordinance. Motion seconded by Supervisor Connie Anderson. Motion carried.

Non Conforming Commercial Use Ordinance

Chair Bev Topp explained that the moratorium on the Non Conforming Commercial Ordinance had not been published on time; it should have been published on March 8, 2003. Clerk Oliver Leine read from a letter explaining the sequence of events that led up to the delay in publishing of the moratorium. [see attached]

Siegel, Brill, Greupner, Duffy & Foster Law Offices on behalf of business owners in Eureka Township submitted a mass filing of Non Conforming Permit Applications, to comply with the existing Ordinance. They did what they felt necessary to protect the business owners, due to the period of time between the application deadline date and the Moratorium taking effect.

A motion by Supervisor Kenny Miller: To pass a resolution to extend the application deadline date on Ordinance No. 32, Section B. 2. to March 22, 2003. Motion seconded by Supervisor Clark Smith. Unanimous vote to approve. Motion carried.

The resolution will be published in the paper.

A motion by Supervisor Don Pflaum: To extend an apology to the community for the misunderstanding at the annual meeting. Motion seconded by Supervisor Connie Anderson. Motion carried.

Minutes:

A motion by Supervisor Connie Anderson: To approve the Townboard Minutes of February 6, 2003 as presented. Motion seconded by Supervisor Clark Smith. Motion carried.

A motion by Supervisor Kenny Miller: To approve the February 10,2003 minutes with the following changes: Page 5, Paragraph 3 Clark Smith's amendment to read as follows- as an accessory use to allow blending imported peat and Eureka Sand and Gravels sand into a turf mix. Page 4-last paragraph Add: Mark Clemmer. Page 7- Add: Ray Kadlec and Clerk Oliver Leine to election judges. Motion seconded by Supervisor Don Pflaum. Motion carried.

A motion by Supervisor Clark Smith: To approve the February Townboard Continued Meeting minutes from February 10, 2003 with the following change. Page 6- last paragraph, remove last sentence. Motion seconded by Supervisor Kenny Miller. Motion carried.

A motion by Supervisor Kenny Miller: To approve the Special Meeting minutes of March 6, 2003 with the following changes. Page 1, last paragraph- The Township will be charged according to the area of the Watershed. (Chub Lake- Chub Creek Watershed) Page 2 under road projects- add: Clark and Don may make minor modifications for the annual meeting. Motion seconded by Connie Anderson. Motion carried.

Treasurer's Report: Treasurer Nanett Leine reported that there is \$914.01 in checking, \$115973.23 in the savings account and \$116,743.40 in savings (Former CD). Federal Tax liabilities are \$548.94. State Tax-liabilities are \$35.00. State surcharge liabilities for building permits are \$495.31. County Sewer Inspection liabilities are \$360.00. Motion by Supervisor Don Pflaum: To approve the Treasurer's report. Motion seconded by Supervisor Clark Smith. Motion carried.

Clerk Oliver Leine presented the following bills for payment:

Dakota Electric	Town Hall	\$9.21
Frontier Communications	Office	\$40.27
Township phone system and Internet	Main+ Int.	\$78.00
Henry's Excavating		\$5,495.00
Dakota County Treasurer	Salt & Sand	\$641.90
Nanett Leine	payroll	\$1,356.97
	expenses	\$103.59
PERA		\$164.83
Rivertown Newspapers	Legal ads	\$142.99
Severson, Sheldon, Dougherty & Molenda	Legal work	\$850.00
LeVander, Gillen & Miller, P. A.	Legal work	\$703.50
McBee Systems Inc.	checks/deposit stamp	\$151.80
Minnesota Association of Townships	seminar	\$70.00
Creative Promotions International	website hosting	\$348.00
TOTAL		\$10,156.06

A motion by Supervisor Clark Smith: To approve bills as presented. Motion seconded by Supervisor Kenny Miller. Motion carried.

The following receipts were presented to the Township in January:

<u>Filing Fees for Townboard:</u>			
Bev Topp	\$2.00	Dan Rogers	\$2.00
<u>CUPs:</u>			
Chub Lake Feed	\$100.00	Eureka Enterprises	\$100.00
<u>NCCP:</u>			
Eureka Enterprises	\$100.00	North Star Pump Service	\$100.00
Carlson Hardscape	\$100.00	S.E. Vick Tool Co	\$100.00
Bill's Storage & Repair	\$100.00	Square Cut Corp.	\$100.00
<u>Gravel Removal Fee:</u>			
John Storlie	\$805.46	Eureka Sand & Gravel	\$958.15
Barton Sand & Gravel	\$474.04		
<u>Payroll tax deduction:</u>			
Kenny Miller	\$148.79	Mark Malecha	\$71.53
Francie Madden	\$60.05	Don Pflaum	\$161.03
Paul Boyum	\$35.57	Calvin Pflaum	\$67.70
Connie Anderson	\$161.80	Greg Gudbjartsson	\$66.17
Oliver Leine	\$76.12		
<u>Zoning Compliance Permit:</u>			
Eureka Tree Farm & Bobcat	\$288.00		
<u>Dakota County:</u>			
Tax Dist 2 nd half 2002	\$12,463.38		

Total Receipts \$16,641.79

A motion by Supervisor Kenny Miller: To accept February receipts as presented. Motion seconded by Supervisor Don Pflaum. Motion carried.

Roads:

Steve Barry- 9020 267th St. asked about digging out the ditch on Iberia Ave.- 200 feet south of 267th Street, it is not draining properly and flooding his property. The road contractor will inspect the ditch and report back to the Townboard on this matter at the April Town board meeting

Planning Commission Land use permits and Related Items:

Zoning Compliance Permits

Rosemarie Zumbach- 25400 Cedar Ave. Farmington requested a zoning compliance permit to construct a horse riding arena 80' x 160' steel frame building. The Townboard asked Mrs. Zumbach to return to the planning commission with detailed plans for placement and type of construction. These would be needed before a permit could be issued.

The concept of the riding arena plans fit into the zoning of the Township.

Brad Skahen- 8135 280th St. Farmington declined the application for a zoning compliance permit at this time, he is in the process of applying for Green Acres.

Buildable Lot Questions

Jack Danner- 6265 245th St. Farmington

Mr. Danner inquired whether the lots on his property Section 14, NW1/4 were buildable. They were split in 1981. They are grandfathered in. He has 3 buildable lots.

Danny Peterson- 26993 Iberia Ave. Farmington

Mr. Peterson wanted the Townboards assurance that if he tore the old farm house down on his property in Section 32, N1/2 of the NW1/4 that it could be replaced. A motion by Supervisor Don Pflaum: Mr. Peterson may remove the house from the property stated above. The building right will remain; it may be rebuilt at anytime in the future, regardless of Zoning Ordinance changes. Motion seconded by Supervisor Kenny Miller. Motion carried by unanimous vote.

Greenhouse proposal-

Jill Sleck- their firm is representing a large Commercial Greenhouse business in the Twin cities that is looking for a building site. (See attached proposal) She would like to know if this project would be appropriate in Eureka Township. She asked if a greenhouse is a permitted use in an agriculture area. Bev Topp read from Ordinance No. 20. Agricultural services are allowed, retail sales are not allowed.

Dakota County easement 225th St. (County Road 74A)

Dakota County needs to know what the value of the right of way according to buildable lots. The Townboard determined that the Zweber family properties have 3 buildable lots. The Madden property has 2 buildable lots. The Stepka property has 1 buildable lot. Deutsch property has 1 or 2 buildable sites. Supervisor Kenny Miller will convey the information to Mr. Christianson.

Questions about CUPs and NCUPs

Bob Crooks- North Star Pump Service asked what he needed to do to withdraw his Non Conforming Use Permit Application. He submitted a waiver of the 60 day rule.

Planning Commission Ordinance

Bev Topp read the Planning Commissions recommendation to the Townboard on the proposed Planning Commission Ordinance.

Supervisor Don Pflaum explained that his vote would be no, he said that the drafting of the Planning Commission Ordinance could have been handled a little different. There are other Ordinances he feels are more important concerning public safety.

A motion by Supervisor Don Pflaum: To table the Ordinance for 2 months. Motion seconded by Supervisor Kenny Miller. Discussion followed.

Bernadette Woods stated that she felt it is a conflict of interest for Supervisor Don Pflaum to have a stand on this issue, due to the fact that his father is on the planning Commission.

Supervisor Kenny Miller read from the Township Association manual the rules for conflict of interest. The Supervisor must decide and remove himself from voting if he feels there is a conflict of interest. No other person can decide that for him.

Supervisor Don Pflaum withdrew his motion and excluded himself from the vote to avoid any conflict of interest on the issue. He abstained from voting.
The new Planning Commission Ordinance is Ordinance No. 34

A motion by Supervisor Kenny Miller: to approve the Planning Commission Ordinance as presented with changes recommended by the Planning Commission on January 6, 2003. Motion seconded by Supervisor Clark Smith. Motion carried. Don Pflaum abstained from voting.

A motion by Supervisor Kenny Miller: Approving the Title, Summary and Notice of Ordinance 34 for publication. Motion seconded by Supervisor Connie Anderson. Motion carried.

A motion by Kenney Miller to approve the resolution for publication of the Title, Summary and Notice of Eureka Township Ordinance amending and restating Ordinance No. 14. Motion seconded by Supervisor Clark Smith. Motion carried.

Old Business

Permits for Ag and Pole buildings refund report

Treasurer Nanett Leine felt it was impossible to go back and determine which of the pole buildings would be classified Ag. All 34 buildings on the list are in Ag Preserves or Green Acres.

A motion by Supervisor Kenny Miller: To accept the list compiled by Nanett, they are all in Green Acres or Ag Preserve at this time, to refund the difference in the \$50 site fee for what they were charged. Motion seconded by Supervisor Connie Anderson. Motion carried.

Non Conforming Commercial Citizen Committee

Tabled till April Townboard meeting.

Farmington Spruce Street Corridor task force

Bev Topp attended their first meeting. The next meeting is end of April. They would like one representative from Eureka Township. It was suggested that Cal Pflaum represent the Township. He stated interest in being on the task force, if the meetings do not conflict with other township meetings. Bev Topp will be the backup representative.

Town Hall Committee Update

Oliver Leine contacted Dylan Larson; he owns the land adjacent to the donated land. He would be willing to work with the Township on purchasing additional land if necessary.

Chair Bev Topp handed out an outline drafted by the attorney on an agreement for the land donation. The board was asked to review it for the April meeting.

Supervisor Kenny Miller checked with Castle Rock Bank, they are willing to finance the project at the Government rate about 4%.

New Business

Sound System for meetings

Tabled till April meeting

Other Business

Clerk and Treasurer Presentations

Treasurer Nanett Leine asked what we should do with the Non Conforming Use Permit application fees that are being held. It was agreed upon that if the public hearing had not been held, the application fee should be returned, after a formal withdrawal has been submitted. If a public hearing has been conducted the application fee should be deposited. If a new public hearing is required there would probably be no additional fee.

The Townboard Organizational Meeting was set for Thursday April 3, 2003 at 7:00pm.

A motion by Supervisor Kenny Miller: to adjourn. Motion seconded by Supervisor Connie Anderson. Motion carried. Meeting adjourned at 10:48 pm.

March 9, 2003

Dear Eureka Township Residents,

I have heard that there is confusion about the timing of and motives behind the official publication of two items recently passed by the town board: (1) an amendment to the Nonconforming Commercial Ordinance extending the time for permit applications until March 10th and (2) a moratorium on the Nonconforming Commercial Ordinance that forms a citizen committee to review and revise the ordinance. Here is a brief sequence of events I hope will clear up any confusion.

The amendment extending the time for application was passed by the town board on February 18. At the same meeting, the town board voted to place a moratorium on the ordinance and create a citizen committee to review and recommend changes to the ordinance. Both documents were sent on to the township attorney for proper legal wording.

I was on vacation the week of February 17, but after I found out from Deputy Clerk Nanett Leine that the application extension and moratorium had passed, I spoke to Bev Topp by phone to see when the legal notices would be back from the attorney and ready for publication. Bev said she would e-mail me the lawyer's final versions. She also said she still needed to review the record on how other town board members had said they wanted to respond to Eureka business owners who were satisfied with the original ordinance and who still wanted to obtain a permit before the moratorium took effect. The issue here was that once the moratorium was published in legally designated newspapers, the board would no longer be able to grant these business owners their permits.

Bev e-mailed me the final versions from the lawyer on Friday, February 28, 2003. Unfortunately, my company e-mail system was down that day, so I never received the message. It wasn't until late Monday, March 3, that I read the copy of the e-mail from home on my personal e-mail account. On the morning of Tuesday, March 4—which was the deadline for submitting legal notices for publication in last week's newspaper—I realized that the moratorium, because it is an ordinance, needed both Bev Topp's and my signatures before it could be submitted to the newspapers for publication. However, the permit application extension, because it was only an *amendment* to an existing ordinance, required only my signature.

At this point, it was too late to get Bev's signature on the moratorium and still meet the newspaper deadline. However, I went ahead and submitted for publication the permit application extension since it only required my signature. The moratorium was subsequently signed by both Bev and me and submitted for publication, and it will go into effect on March 13 when it is scheduled to be published.

In reviewing these events, I realize that the timing of publication of these legal ads might raise concerns among business owners. It was never the intent of the Board or myself to mislead business owners or to place their businesses in jeopardy. The township attorney has been consulted and he confirms that this situation *does not* mean businesses have to cease operation on March 11th. He also confirms that the citizen committee can simply change the application date in the revised Nonconforming Commercial Ordinance they recommend to the board, thus allowing all businesses another opportunity to apply for a permit at a later date.

Sincerely,

Oliver Leine
Clerk of Eureka