

Denmark Township Board Minutes January 3, 2005
Approved

SUPERVISORS PRESENT: Peg Powers, Jim Fitzpatrick, Kathy Higgins, John Kummer, and Jim Keller.

OTHERS PRESENT: Clerk/Treasurer – Tracy Fritze; Attorney – Kevin Shoeberg; Engineer - Cara Geheren.

CALL TO ORDER: Chair Powers called meeting to order at 7:01 pm.

AGENDA APPROVAL:

- Kummer added outstanding items list.
- Powers added Van Alstine Lot Split Application.
- Motion Keller/2nd Fitzpatrick to approve agenda as amended. Motion carried.

CONSENT AGENDA APPROVAL:

- Motion Keller/2nd Higgins to approve consent agenda items as presented. Motion carried.

HEARING DECISIONS:

- McQuade - Minor Subdivision. McQuades not present. Higgins summarized request. Planner and Planning Commission both recommended approval. Motion Higgins/2nd Keller to approve minor subdivision request with the Planning Commission recommendations.
- Van Alstine Lot Split Application. Valda Van Alstine summarized request - selling 20 acres of agriculture land to adjoining neighbor, Norm Strofus. Shoeberg - has spoken with their attorney, they are closing at the end of the month. On a sale of 20 acres of Ag land, the board doesn't need to normally approve but they do not have the required 500 feet of road frontage so the board does need to review this request. Shoeberg will prepare a development agreement with Van Alstine and Strofus. There is a gap issue that will need to be cleared up at this time also. Motion Fitzpatrick/2nd Kummer to approve lot split conditioned upon development agreement and allocation of appropriate density units. Norm Strofus - regarding the 500 feet of road frontage, all of his other properties have less than 500 feet of road frontage - this parcel will add 378 feet. What is going to be in the development agreement? Shoeberg - Determination of how many density units are left on property. Strofus does not intend to combine it with other parcels - it will have its own parcel ID number. Higgins - this will have a park dedication fee of \$1,000 also - yes. Motion carried.

PUBLIC COMMENT:

- Steve Biscoe - thought we were supposed to get 6 newsletters per year! Powers is trying.

BUSINESS ITEMS:

- Complaint 04-12 - commercial business in residential area. Tom Anderson has filed a formal complaint about a commercial business operating in a residential area.
 - Higgins - has spoken with Mr. Anderson - the property being referred to is owned by Jerry Meier. The complaint is accurate, there is a business being operated. An application for CUP was denied a number of years ago.
 - Mr. Meier admits there is a business operating there and is willing to re-apply for a permit. He had spoken with Gary Thyren (past board member) on the issue and was told he was ok until someone complained.
 - Higgins - would it help Mr. Anderson if fences would go up? Mr. Anderson - doesn't feel a business there fits in. Londa Anderson (Tom's wife) - concerned with precedent and tone set by allowing the business there. It also increases the traffic in the area. Norell is a gravel road with a lot of pedestrian traffic.
 - Mr. Meier replied that they hardly rarely use Norell Avenue. The vans leave early in the morning and don't come back until evening. They don't work on site.
 - Keller - wonders why CUP was not approved - Mr. Meier never followed through with the application because the County would not approve it. At that time Mr. Thyren told him not to pursue with CUP application with Denmark.
 - Shoeberg - if a business is there and operating, until they make an application, they cannot operate there. Even if Denmark approves, it doesn't sound like the County will approve.

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- Anderson - when does it become totally inappropriate to have a business in this location?
- Powers - feels Mr. Meier needs to get a CUP through in Denmark and the County.
- Keller - cannot be resolved tonight, thinks supervisor in charge of this complaint needs to report a plan of action next month.
- Fitzpatrick - did you apply to the County to put up a building? No, never got past first base. The County sent him some paperwork and Meier worked with Thyren and Thyren said instead of paying the money and putting up a fence just wait until someone complains.
- Fitzpatrick - if this type of business is not on the list, can they have that type of business there? Shoeberg's interpretation is that no, if it is not on the list, it is not allowed. It may be less offensive to put up a building versus a fence to make it look better. This would not help traffic.
- Kummer - if we ever incorporate, would the County have to get involved? No, but we still have our own ordinances that he would have to meet.
- Higgins - [to Meier] if you were allowed to build a building, could you fit everything that is outside in the building? Yes, he can also cut back on how much is stored on site. He doesn't agree with the traffic issues - they operate only 6 months of the year. Can he apply for a 3 or 5 year permit to give him time to look for property?
- Powers - can we do a limited CUP? Shoeberg - CUP's run with the land. Powers - may need to look at ways to limit the operation to fit in the residential area.
- Keller - is the complaint primarily the traffic and the eye sore of the vehicles? Yes as well as the fact that he doesn't have a permit to operate the business. Mr. Anderson has no interest in running Mr. Meier out of business.
- Keller - maybe have vehicles off-site?
- Kummer - does it seem reasonable that we try to work out something immediately and for in the future? Yes. Mr. Meier will apply for a CUP and Higgins will contact Washington County.
- Eagles Watch residents - Stanton unable to attend tonight's meeting. Powers read letter from Stanton dated 12/20/04. Resident - concerned with how the money is to be used - the Township responded in writing to Mr. Stanton stating that the \$10,000 escrow deposit would utilize the funds in accordance with the Development Agreement and in order to review outstanding issues on the plat..
 - Powers - one building permit has been issued immediately after the last meeting. The Township does not know the status of the pump yet. TKDA will be looking at the pump house capacity now that the Township has the money. Geheren - she needs basic data about the pump before doing an assessment. Shamrock has not responded to requests for this information. There are other means to get the information; she just needs the go ahead from the board.
 - Resident - the pump is a serious issue. Adding the additional pressure tank was just a patch. To continue to issue permits is the wrong thing to do. Higgins - willing to make a motion tonight that no more permits are issued until the pump issue is resolved.
 - Kummer - [to Geheren] when pump investigation is done, will you come back with what output recommendations are? Yes, they will recommend a design specification as well as if the current pump is appropriate. Will also look at what is the best way to fix it, if need be.
 - Resident - they did not add capacity to the pump. Traut Well and People Service have both said there are issues with pump capacity.
 - Dave Rowe - is there anything in the ordinance that contractors have to carry completed operations insurance? Road corrections - warranty period should be extended.
 - Resident - excavation - there are lots that water backs up on. Powers - when spring comes it will be looked at. Kummer - the answer may lie with the ordinances on grading - Stanton very well could have met our current specifications.
 - Biscoe - did TKDA review well capacity? Geheren - No, they did not review it. Powers - would it be wise to develop guidelines for our ordinances on common wells? Geheren - yes, the County has some information that may be helpful. Higgins - based on this case, Denmark ought to review any future common well application. Requirement of completed operations insurance currently not in Development Agreements. Higgins recommends it be included in all

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future Development Agreements. Resident - has documentation on well that he will provide to Geheren.

- Pathways - they are nice however they just bulldozed areas and dumped class 5 - there will be erosion issues come spring. Geheren - will get someone from TKDA to inspect. Fitzpatrick - the WMO would probably be interested in this as well.
- Biscoe - is someone from the Homeowners Association involved? Higgins - yes, they should have a representative there.
- Joe - Outlot A - they have found more documentation that shows that the ownership was to be the Homeowners Association. Why would they want to manage something they do not own? Powers - Open Space Narrative - what document did that go with? It may have been a density calculation document prepared for Washington County. Powers - some documents say ownership and some say management. Biscoe - recalls that the Homeowners Association was to own and manage. There is a discrepancy between what was said and what is in the Development Agreement. Mike - what can we do now? The properties were sold with that as a selling point. Powers - what options do we have? Shoeberg - we were going to discuss with Stanton but he isn't here. Homeowners Association has the right to manage Outlot A. The intent was the first 5 years it would be farmed. Disagrees with the idea that the Homeowners Association was going to own Outlot A.
- Powers - is there any way the township could transfer the conservation easement to a 3rd party? Shoeberg - thinks that could happen.
- Resident - Stanton told her that it will be farmed as long as farmer wants to. Shoeberg disagrees - they have the right of first refusal not use forever.
- Resident - ownership vs management - why would they spend the money on land they don't own. Shoeberg - the only thing Stanton got out of Outlot A is the right to pay the taxes and if the Conservation Easement is dissolved, the property would go back to him. Resident - that is exactly what they are talking about! If the residents manage this land, they are liable for what happens on it. Why would they do anything on the property and have him earn the income from the farmer? Resident - income from farming - who gets that?
- Resident - would he have met the density requirements if he didn't own outlot A? Higgins - that property is eligible to be in the formula. Requests a written legal opinion from attorney as to what exactly homeowner management of Outlot A means, who will receive rental income from Outlot A, and whether or not homeowners, as managers of open space can decide to not rent as farmland.
- Keller - cannot get to resolution on the ownership issue tonight. The well capacity is the more important issue at this point.
- Joe has documentation that removed Outlot A from the calculation and he does not meet the density requirements.
- Powers - proposes that we have a separate workshop with a representative or two from Eagles Watch, the board and Shoeberg.
- Resident - need to take farmer into consideration - he is under the impression that he can farm this land forever and then his children.
- Higgins - doesn't feel a workshop will be helpful unless there is more information (legal opinion) is received. Believes workshop should be with full Board and Mr. Stanton.
- Mike - Stanton wants to turn over Homeowners Association this month. Their attorney doesn't feel there will be anything adverse for them to accept the Homeowners Association.
- Motion Higgins/2nd Fitzpatrick that no further building permits will be issued in Eagle's Watch until well capacity/other problems are addressed.
- Shoeberg - there is a recorded plat of the development that includes Outlot A. Keller - would like to amend motion to include Geheren's quick well capacity review. Higgins and Fitzpatrick do not support proposed amendment. Shoeberg - the Township has no basis to stop building permits at this point - these are only allegations at this point - the Township engineer has not even reviewed the well yet. This motion will create a liability for the Township.

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- Higgins - would like another letter to Stanton letting him know the Board has been informed by residents that there are well capacity issues and letting him know we will be holding up building permits until engineering analysis is complete.
- Geheren - due to weather the paths will not be complete until spring.
- Shoeberg's recommendation is to wait until Geheren's well capacity review before passing a motion like this.
- Above motion amended to read: Motion that no further building permits be issued in Eagles Watch pending results of engineering evaluation/assessment of current well capacity/walking trail installation/erosion issues. Satisfactory agreement must be reached with Shamrock for resolution if problems are identified. Engineer to notify Board of results of evaluation. Special meeting to be held at call of chair if engineer believes permits should be issued. If problems with well capacity/walking trail installation/erosion are identified and satisfactory resolution cannot be reached, building permit hold will continue. Motion carried.
- What is the difference between Eagle's Watch Declaration and the Development Agreement. The DA is between the Township and Shamrock and the Declaration is between Shamrock and the Homeowner's Association.
- Reynolds Concept Review Discussion - Powers - there is a question about how many houses Denmark will allow off a private road. Dr. Reynolds presented - owns 57 acres - has a shared easement that allows access to property. Also has a proposed easement to allow access to new lots. The parcel is land-locked. He wants to know how many parcels can be put on the back side of the property. They want to keep 40 acres and build 3 houses on the remaining 17 acres. Geheren - can they have 3 lots off a shared driveway? If they are allowed to do this, these houses will not have public road frontage. The ordinances do not allowed private roads. Higgins - how many parcels on the Ted Collins property? Two to start with and this parcel was the 3rd but now they want to build 3 houses. Geheren - where easement is shown - that is the way the county wants it but not the way the homeowner's wants it. They will need to work it out with the County. If it is a road (vs a driveway), it would have to meet our design standards and she is concerned with the sharp turns. Biscoe - it has to be a road built to township standards or a private driveway. Tony Sieben - don't we have roads like this already? Yes, but they pre-dated our standards. Higgins - feels it needs to be a public road. Road is proposed at ½ mile long and they would also need a variance. They plan to build a house on the remaining 40 acres then demolish their current home that is on the property. Shoeberg - how many lots would we approve with a road brought in? Three. Geheren - walked property with Reynolds and Ingraham - they would be comfortable with the variance for length of cul-de-sac. Easement from Collins - was that for a road? Shoeberg recalls that it is the amount for a road right-of-way. Reynolds - if road needs to be to Township standards and black topped, it would be fiscally impossible. A driveway easement would allow him to develop the land. Powers - prefers road built to Township specifications for the 3 lots. Shoeberg - if you are going to allow access, bring it up to Township standards. Higgins - could he build road to township standards but not black top until the 2nd house is built. Shoeberg, yes - Mr. Reynold's would need to plat all 3 and when 2nd house is built, road would have to be blacktopped. Building permit would not be issued on 2nd house until road securities were in place. A preliminary plat is good for two years. Geheren - at what point does the Township take over maintenance - same procedure as always - they will be responsible for maintenance until we take over the road.
- WMO Procedure - Fitzpatrick would like to table discussion until next month. The WMO is working on a process. Higgins - who is paying EOR for the various reviews done within the Township? The WMO is paying for this and it will be billed back to the applicant.
- Accessory Building Placement Approval - Higgins - asked Ron Wasmund why there was an accessory building built in front of a home on 122nd. Ron is taking responsibility for this error. It is probably a very logical placement for the accessory building. Ron would like to board to post-approve this accessory building placement. Motion Kummer/2nd Fitzpatrick to approve the building as placed. Primary reason for approval is to not hold up homeowner due to staff error. Motion carried.
- St. Croix Ridge - possible time extension - their time is up January 19th. Application was made in October 2004. Ingraham is proposing a letter be written to Mr. Riegel extending the time line. On a preliminary plat like this, there is a 120 day timeline not a 60 day timeline. Motion Fitzpatrick/2nd

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Higgins to deny preliminary plat unless a 180 day extension of the 120 day timeline is received by the applicant. Motion carried. In addition, the Board concurred that no vehicular access will be allowed along 110th Street Lane by the new proposed homeowners, access must be maintained/provided to the Mattmiller property, the road cannot/will not be considered "open space" and that erosion control issues must be addressed. Shoeberg will draft a letter to Riegel and copy Township. Higgins - in the past proposals Mr. Riegel has included 110th Street Lane and the property to the north in his open space calculation - board feels this is not appropriate. This will need to be relayed to Mr. Riegel. 110th Street Lane is private and really hazardous. Has a problem with the board allowing additional traffic of the new development residents using this road as well as their guests. Dennis O'Donnell of Washington County would not support any of the new residents having access to this road. This too needs to be relayed to Mr. Riegel. Geheren - had been troubled by this since the plan was submitted - is glad to hear we have the ability to not allow additional traffic. Higgins - if this development goes through, a portion of Mattmiller's land will be landlocked. Mattmiller had an informal arrangement to use Nicoll's field road to access his property. Shoeberg will discuss all the issues with Ingraham and put them into a letter to Riegel.

- Snow Clearing/De-icing at Town Hall - Powers - ramp and parking lot was icy during a public meeting and she received a complaint. Recommendation is that the road maintenance contractor should plow/sand before any public meeting. Kummer offered to talk with Wagner's. As far as the stairs and ramp - discussion as to who is responsible. Powers to see if she can find someone to hire to do it. Kummer will see if Wagner's will also deal with the stairs/ramp.
- Summary of Cable Franchise Ordinance - Motion Fitzpatrick/2nd Kummer to approve Summary of Ordinance No. 2004-02, Cable Franchise Ordinance. Motion carried.
- Election Judge Salary - Fritze presented summary of hourly rates for election judges in Washington County. Motion Fitzpatrick/2nd Keller to raise hourly rate for election judges from \$7.50 to \$8.50. Motion carried.
- 2004 Board of Audit - The following claims were randomly selected and reviewed by the board:
 - Claim #payroll
Claimant - Peg Powers
Amount - \$332.46
Check #7776
Claim Approved 01-04-04
 - Claim #payroll
Claimant - John Moes
Amount - \$36.94
Check #8000
Claim Approved 08-02-04
 - Claim #payroll
Claimant - Pat Lilligren
Amount - \$55.41
Check #7862
Claim Approved 04-03-04
 - Claim #7888
Claimant - Ingraham & Assoc.
Amount - \$2377.87
Check #8113
Claim Approved 12-06-04
 - Claim #7747
Claimant - Tyler Thurmes
Amount - \$495.00
Check #7950
Claim Approved 07-12-04
 - Claim #payroll
Claimant - Margene Rohn
Amount - \$93.50
Check #8132
Claim Approved 12-06-04

All of the above claims were verified by the board. Motion Kummer/2nd Keller to approve the Board of Audit claims. Motion carried.

- Outstanding Items List - reviewed list.

LEGAL REPORTS

- Klopf - The County is considering this fine money so they weren't planning to send it to us. Shoeberg is addressing this with the judge this month.
- Rumpca - they asked for information on engineering costs for reviewing EAW in 1995. Geheren is looking for this information. Still looking for a new arbitrator since Judge Kenneth Maas is ill.

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Shoeberg feels arbitration will be sometime in February. Higgins - requests that Township is copied on all correspondence so we know what is going on.

- Suburban - moving vehicles out of there. No cost to Denmark at this point. Property will be inspected again this Thursday. Barrel of solvents will need to be removed. Hopefully by the end of the month it will be empty. Higgins - requests that Township is copied on all correspondence so we know what is going on.
- Brabec - Shoeberg sent extension letter to Brabec. Has not received anything from them as far as the septic results. Will be drafting a letter to board on ownership issues.
- Davison - Mr. Skow doesn't want to enter into an agreement regarding his driveway. Shoeberg contacted an appraisal to appraise access to come up with a valuation on the access that Davison is proposing. That would be the amount he would need to pay the property owner. Geheren will need to review proposed access as well.
- Incorporation Public Meeting - have not received resolution from Washington County in support of Denmark's incorporation. Jim Shug said he never received the request for the resolution. There is no legal requirement that County has to support our incorporation. Decision to wait to schedule meeting after this resolution is received.

ADJOURNMENT

- Motion Fitzpatrick/2nd Kummer to close regular meeting and go into closed session at 11:19 pm. Motion carried.
- Motion Higgins/2nd Fitzpatrick to re-open regular meeting at 12:11 am. Motion carried.
- Motion Kummer/2nd Fitzpatrick to recess regular meeting at 12:13 am until meeting with Engineer on Eagles Watch. Motion carried.

Tracy Fritze

Tracy Fritze, Denmark Clerk/Treasurer