

DENMARK TOWN BOARD MEETING MINUTES
January 2, 2007

SUPERVISORS PRESENT: John Kummer, Kathy Higgins, Gary Dixon, Jim Keller, Joe Moore.
Also Present: Attorneys Troy Gilchrist and Paul Reuvers and TKDA Engineer Cara Geheren

CALL TO ORDER: Meeting called to order @ 7:00 PM by Chair Kummer.

AGENDA APPROVAL: Higgins added A+ Auto. **Motion Moore/2nd Dixon to approve the agenda as amended. All in Favor. Motion Carried.**

CONSENT AGENDA APPROVAL: Kummer pulled 12/04/06 Board Meeting Minutes.
Motion Higgins 2nd Keller to approve remainder of consent agenda. All in Favor. Motion Carried.

HEARING DECISION/ZONING ACTIONS: NONE

PUBLIC COMMENT: NONE

BUSINESS ITEMS:

Rumpca Matter: Kummer stated that through a mediation process, the Board and Rumpca have reached an agreement. The designated access route for the pit is 60 feet East of the Magone property access driveway onto 80th Street, west to Oakgreen Avenue South, and then continuing north on Oakgreen Avenue South to 70th Street. Rumpca will improve Oakgreen Avenue South at their cost and will maintain the road for the life of the gravel pit. Denmark will plow the road and mow the ditches.

Motion Higgins/2nd Dixon to approve Resolution 2007-01 Resolution Approving Settlement Agreement With Rumpca Excavating as drafted.

All in Favor. Motion Carried. See addendum to minutes for full text of Resolution.

Shooting Range: Higgins reported receiving several complaints from residents regarding the intensification of use at the shooting range on Oakgreen.

Mike Rygh-owns neighboring acres. Has concerns of additional use of the range. Stated that if it goes back to the full status of a gun range and no conditional uses are put on it, it would be detrimental to the Township. Mr. Rygh asked Board to consider having an ordinance not allowing new shooting ranges in the Township, and stated that there should be limitations put on a conditional use permit for the current range.

Kummer stated that the future use of the gun range is permitted through the previous use of the gun range, because it was in use prior to the establishment of conditional use permits, therefore it is grandfathered in. Higgins stated that one question raised was whether or not the current ordinance dealing with intensification of use in existing non-conforming uses would be applicable here. That would require an amended CUP for intensification of use. Attorney-Denmark Township ordinance states that the Board could require that a conditional use permit be required for non-conforming uses, when there is an intensification of use. Shooting ranges are protected by Legislation as long as they comply with DNR standards. Local ordinances are able to regulate some aspects of a shooting range, but they are minimal. Attorney will review Township ordinances and advise Board on options.

DENMARK TOWN BOARD MEETING MINUTES
January 2, 2007

Local Board of Appeal & Equalization Training: For Denmark Township to continue handling property tax appeals, supervisors must attend Local Board of Appeal & Equalization Training. Dixon will attend training this year.

2007 Development Review Schedule: Clerk submitted 2007 Development Review Schedule for approval.

Motion Higgins/2nd Keller to approve 2007 schedule as submitted.
All in Favor. Motion Carried.

Kummer's Cliff-Final Warranty Inspection: Engineer reported that Kummer's Cliff final warranty inspection was conducted and recommended project acceptance and security requirements be fully released. **Motion Moore/2nd Keller to approve final warranty inspection and release of securities for Kummer's Cliff.**
Voting Aye-Moore, Dixon, Keller and Higgins. Voting Nay-none. Kummer abstained.
Motion Carried.

Legal Files: Township will retrieve all Township files from prior legal counsel.

Trash Hauler Licensing: Motion Higgins/2nd Moore to approve revision of 11/1997 Denmark Township Solid Waste Trash Haulers policy to include annual renewal fee of \$75. All in Favor. Motion Carried.

Motion Higgins/2nd Keller to approve Solid Waste Licensing/Renewal application to include \$75 renewal fee. All in Favor. Motion Carried.

TH 95: Engineer submitted report on the future design concept and access study for TH 95 to Board.

Purchase of personal PA system: Discussion on possibility of purchasing a specialized system for the Town Hall to be available for hearing impaired persons. Dixon will check out current Town Hall sound problems.

St. Croix Ridge: TKDA sent Riegel a letter on discrepancies of site plan. Met with contractor on site and set up plan to rectify problems. Work will not be done until next Spring. Engineer will submit written update on St. Croix Ridge to Township. Clerk to research status of Letter of Credit.

Suburban: Board discussion on unlocking Suburban Towing. Suburban has no Conditional Use Permit. Board consensus that current status of Suburban be reviewed.

Motion Keller/2nd Higgins to have Dixon inform Suburban that on Friday, 01/05/07, the doors will be locked; also to direct attorney to review Suburban matter and to have attorney and Board Chair correspond with Suburban to indicate doors will remain locked and should they wish to obtain a conditional use permit they would need to see the Town Board. All in Favor. Motion Carried.

DENMARK TOWN BOARD MEETING MINUTES
January 2, 2007

TKDA Planning Services Agreement: Attorney and TKDA Engineer are currently working on an updated agreement. Engineer will get a draft updated version for the next Board Meeting.

WMO Update: Engineer has provided Board with a review of the latest draft of WMO rules. Denmark Township preference is that WMO role be “review and comment” rather than “review & permit”. Denmark prefers continuing Washington County permitting for ISTS’s, rather than WMO permitting. Recommended removing that component from WMO rules. Board not in support of WMO requirement for infiltration basins. Discussion regarding Karst Topography and protecting groundwater resources, volume control, different types of stormwater management systems and maintenance of same. Discussion re: upcoming 01/10/07 Steering Committee Meeting with WMO Board. Several Board members expressed interest in attending the meeting. Clerk directed to post meeting so that other Board members could attend.

A+ Auto: A+ Auto Amended Conditional Use Permit has been revised to include the existing trailers sales business on the site which was covered by the original conditional use permit.

Motion Moore/2nd Dixon to approve adding the existing trailer sales business (Geisinger Trailer Sales) in the A+ Auto Amended Conditional Use Permit.
All in Favor. Motion Carried.

12/04/06 Minutes pulled from Consent Agenda: Kummer noted that the adjournment motion was repeated at end of the meeting and should be deleted.

Motion Higgins/2nd Keller to approve amended 12/04/06 Minutes. All in Favor. Motion Carried.

Motion Dixon/2nd Higgins to adjourn. All in Favor. Motion Carried.

Meeting adjourned @ 10:22 PM.

Becky Herman
Clerk/Treasurer

See Attached addendum: Resolution 2007-01

RESOLUTION NO. 2007-01

**DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA**

**RESOLUTION APPROVING SETTLEMENT
AGREEMENT WITH RUMPCA EXCAVATING**

WHEREAS, the gravel mining operation proposed by Ronald Magone, Helen Magone, David Magone, Georgann Biscoe and Rumpca Excavating, Inc. ("Rumpca") resulted in litigation over whether the operation was eligible for a conditional use permit from the Demark Township ("Town");

WHEREAS, in decision issued by the Minnesota Court of Appeals on July 1, 2003 the Town was ordered to issue Rumpca a conditional use permit;

WHEREAS, the Town and Rumpca agreed to submit to binding arbitration to determine the access route to the pit;

WHEREAS, on September 6, 2005 the Town issued Rumpca a conditional use permit that incorporated the access route (Oakgreen Ave. south to 90th Ave.) selected by the arbitrator in the binding arbitration;

WHEREAS, the access route was challenged in a separate declaratory judgment action brought by owners along the selected access route;

WHEREAS, in a decision issued July 25, 2006 the Washington County District Court determined the Town had no roadway easement for a portion of the selected access route;

WHEREAS, Rumpca asserted the Town was obligated to submit to further binding arbitration to select a new access route to the pit;

WHEREAS, the Town passed Resolution No. 2006-05 on November 6, 2006, which the Town Board amended and restated on December 4, 2006 in Resolution No. 2006-07, determining the Town was not obligated to resubmit to binding arbitration and indicating the Town Board would not participate in binding arbitration to select a new access route to the pit;

WHEREAS, Rumpca reopened Washington County District Court file No. C9-01-5904 and filed a motion with the court dated November 16, 2006 requesting the court to: restrain and enjoin the Town from taking any action to revoke or declare expired Rumpca's conditional use permit; restrain and enjoin the Town from taking any other act in derogation of Rumpca's permit; and to compel the Town to immediately attend binding arbitration;

WHEREAS, the Town tendered the matter to its Public Officials' Liability insurer and the insurer assigned counsel to defend the Town;

WHEREAS, the Town and Rumpca agreed to attend mediation in an attempt to resolve their disputes;

WHEREAS, on December 7, 2006 representatives of the parties attended mediation and were able to reach agreement regarding the access route to the pit;

WHEREAS, the representatives signed a settlement agreement providing, among other things, that the Town would agree to issue Rumpca an amended conditional use permit designating the access route for the pit to be from the property's access driveway onto 80th Street, west to Oakgreen Ave. South, and then continuing north on Oakgreen Avenue South to 70th Street South, Rumpca would improve the access route at its own expense and be responsible for certain maintenance activities on the road for the life of the pit, the Town would erect related traffic control signs at its own expense, and setting a new issuance period for the permit;

WHEREAS, the settlement agreement is subject to Town Board approval;

WHEREAS, the Town has devoted a great deal of time, effort, and expense toward this matter in the approximately 8 years since Rumpca first submitted its conditional use permit application for the pit;

WHEREAS, the Town Board determines it is not in the best interests of the public to spend additional resources to litigate this matter since: the Court of Appeals has determined Rumpca is eligible for a conditional use permit for the pit; the Town issued Rumpca a conditional use permit in accordance with the court's order; and the invalidation of the originally designated access route leaves the Town in a position of reasonably having to issue Rumpca an amended conditional use permit to designate a new access route to the pit;

WHEREAS, the Town Board determines the proposed settlement agreement is in the best interests of the Town and the public because: the Town Board had previously discussed the Oakgreen Ave. north route as a viable access route with some advantages over the remaining possible access routes; the Town avoids the expense of paying any portion of the cost to improve the access route; the improved road will increase safety to the traveling public; Rumpca becomes responsible for a significant portion of the cost to maintain the route during the lifetime of the pit; the obligation to improve and keep repaired the access road is made part of the amended conditional use permit and runs with the land; the Town avoids the cost and uncertainties associated with additional litigation; and settling this matter now allows the Town and the community to move past this issue;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board does hereby approve the settlement agreement with Rumpca dated December 7, 2006;

BE IT FURTHER RESOLVED, that the Town Board, if the settlement agreement is approved by the Washington County District Court, hereby agrees to comply with the Order and will issue Rumpca an amended conditional use permit, as presented to the Town Board and in accordance with the settlement agreement; and

BE IT FINALLY RESOLVED, that the Town Chairperson, Town Clerk-Treasurer, and Town Attorney are authorized to undertake such activities, including but not limited to, executing and recording documents, as may be needed to seek and obtain approval of the settlement agreement by the Washington County District Court and to issue an amended conditional use permit if so ordered.

Adopted this 2nd day of January, 2006

BY THE BOARD



Town Chairperson

Attest: 

Town Clerk