

DENMARK TOWN BOARD MEETING MINUTES
May 3, 2010

SUPERVISORS PRESENT: Jim Keller, Gary Dixon, Kathy Higgins, Steve Kramer, Joe Moore

ABSENT: None

STAFF PRESENT: Attorney Gilchrist, Planner Farrington and Engineer Geheren

CALL TO ORDER: Meeting called to order @ 7:02 PM by Chair Higgins

Sheriff submitted citation report.

AGENDA APPROVAL: Keller added Red Rock Corridor Commission. Moore added Newsletter and Trash Hauling. Higgins added Building Inspection Services, Animal Humane Society, Movie and 117th St. Plat. **Motion Keller/2nd Moore approval of agenda as amended. All In Favor. Motion Carried 5-0.**

CONSENT AGENDA APPROVAL: Motion Keller/2nd Moore approval of consent agenda which includes 04/05/2010 Board minutes, 04/13/2010 Board Workshop Minutes, Claims #9361-9375, PERA EFT 137104, payroll ending 05/01/2010 and financial reports. All In Favor. Motion Carried 5-0.

HEARING DECISION/ZONING ACTIONS: Strohfus, John & Mary Conditional Use Permits

John & Mary Strohfus 14680 90th St. present.

(Project Description: Excerpt from Public Hearing)

The applicants are requesting Conditional Use Permits for two commercial horse boarding operations located at 14680 90th St. S. The requests are made in order to continue the business after the land was split between two owners through settlement of Norm Strohfus' estate. The 2 sites have the facilities to operate as separate businesses, though at this time they plan to continue operating as one business. Currently there are 51 horses at the site.

John Strohfus parcels: Three parcels, PIN's 160272043004 (20 acre field west of the arena and barns), 160272043005 (25 acres containing the arena and barns) and 2102720110001 (25 acre hayfield at 90th/St Croix Tr) Combined 70 acres.

Request is to allow 50 horses. Current barn capacity is 25. If the business were to split into two separate businesses, John would like to build an additional barn with 25 stalls. Should any of the land become separated from this permit, the rights given by the CUP would remain with parcel 160272043005, the 25 acre parcel containing the barns. A minimum area of 45 acres would be necessary to allow for the continuance of the operation should either parcel 160272043004 or 210272011001 be separated from the farm.

Mary Strohfus parcels: Two parcels, PIN's 1602720430001 (10 acres containing the house) and 1602720420003 (15 acres north of the house) Combined 25 acres.

Request is to allow 26 horses. Current barn capacity is 26. Should parcel 1602720420003 be separated from the operation, the rights given by the CUP shall remain with parcel 160272043001. A minimum area of 25 acres would be needed to maintain the business.

There is one well serving the residence, mobile home and barns. A shared well is allowed for a temporary dwelling and agricultural buildings. Each site has its own septic systems. Discussion regarding whether an additional well would be required if parcel containing the arena/barns were to be sold. Planner to check on possible requirements. Planning Commission recommends condition placing a requirement to install a well on parcel 160272043005 if it were ever sold outside of the Strohfus family.

Two additional addresses will be added to the properties. 25 acre barn/arena parcel will be 14650 90th Street S. 20 acre parcel will not be a mailing address.

Applicant will also be seeking a Certificate of Compliance for a temporary farm dwelling unit to house farm labor. Mobile home currently has a Conditional Use Permit as part of a working farm.

Applicant will contact Minnesota Pollution Control Agency for any compliance that may be needed.

Applicant also submitted signage request. Part of the request would require a variance, which cannot be considered without public notice, therefore would need to be addressed at a future time. The sign request included with the requested CUP meets the code standards.

Township Ordinance limits size and number of accessory structures. The nonconformity which exists can be allowed to continue if no further expansion were to happen. Ordinance has setback standards regarding animals, dwellings and manure pits. A number of existing setbacks are nonconforming. The Town may allow for continuance of nonconforming situations when considering Conditional Use Permits.

Planning Commission recommended conditional approval of the CUP requests.

Planning Commission added condition #9, In the event that parcel 1602720430005 (25 acres) be sold outside of the Strohfus family, a new well will be installed. Planner contacted Dept of Health for their opinion on State requirements. The shared well is adequate and meets State Department requirements. Condition would not be required. Consensus to eliminate Planning Commission condition #9.

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Motion Keller/2nd Moore approval of Conditional Use Permits for the operations of commercial horse boarding facilities for John Strohfus and Mary Strohfus, subject to the following conditions:

1. **Mary Strohfus property: This Conditional Use Permit allows for a commercial horse boarding facility, consisting of 25 acres, for a maximum of 26 horses. Pasture, manure storage, agricultural buildings, arena, and parking areas shall be in substantial compliance with Exhibit A, the site plan provided by the applicant.**

John Strohfus property: This Conditional Use Permit allows for a commercial horse boarding facility, consisting of 70 acres, for a maximum of 50 horses. Pasture, manure storage, agricultural buildings, arena, and parking areas shall be in substantial compliance with Exhibit A, the site plan provided by the applicant, with the exception that a manure storage area and an additional barn may be added to the operation, which must meet all setback requirements.

2. **Exterior lighting, including arena lighting, must comply with the lighting standards of the zoning ordinance. Lighting must be shielded or downcast so that light cast on 90th Street not exceed 1 foot candle meter reading at the centerline, nor exceed .4 foot candles as measured at an adjacent property line.**
3. **Mary Strohfus property: A minimum of 5 off street parking spaces must be provided. All parking needs must be accommodated on site.**

John Strohfus property: A minimum of 10 off street parking spaces must be provided. All parking needs must be accommodated on site.

4. **Exterior storage of trailers must be screened from view from 90th Street.**
5. **The operation must comply with Minnesota Pollution Control Agency regulations that may be applicable.**
6. **John Strohfus property: One 2-sided sign, each side 8 by 4 feet, is allowed, located approximately 200 feet west of the driveway, setback a minimum of 10 feet from the front property line, with a maximum height of 10 feet measured from grade to the top of the sign. Sign colors may be navy blue, gray, and white.**
7. **Mary Strohfus property: Should any land governed by this permit become separated from the operation, the rights given by this Conditional Use Permit shall remain with parcel 1602720430001, the parcel containing the barn and other major improvements necessary to the operation. The horse boarding operation must maintain a minimum area of 25 acres to continue as permitted.**

John Strohfus property: Should any of the land governed by this permit become separated from the horse boarding operation, the rights given by this Conditional Use Permit shall remain with parcel 1602720430005, the parcel containing the barns and other major improvements necessary to the operation. The operation must maintain a minimum area of 45 acres in order to continue as permitted.

8. **All fees shall be paid. All In Favor. Motion Carried 5-0**

Attorney will draft Conditional Use Permits with the approved and usual conditions. (Resolution 2010-05 and Resolution 2010-06).

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PUBLIC COMMENT: Crashed Toys- General Manager Mick Way introduced himself to Board. Business is interested in working with Town. Crashed Toys has formal agreement to purchase adjoining acreage. Keller inquired whether a CUP is changed if additional property is added. Attorney stated that the clear way would be with an amended CUP to assure that the CUP encompasses all the property involved and addresses possible changed conditions.

Denmark Township Historical Society- Re: Town Celebration. At the Annual Meeting, the electors authorized expenditure of up to \$1000 for a Town Celebration. Members of the Denmark Historical Society shared information regarding the Town Celebration. This will be held Tuesday, August 3, 2010. Pavilion shelter will be at a cost of \$75. DTHS and Denmark Homemakers will organize the celebration. Board consensus to deposit designated \$1000 into Lyla Davies account. Lyla will keep receipts and submit to Town. Board contact is Joe Moore. **Motion Keller/2nd Kramer to forward \$1000 to the Historical Society, Lyla Davies for use for the Town Celebration. All In Favor. Motion Carried 5-0.**

BUSINESS ITEMS:

Strohfus Certificate Of Compliance: John Strohfus request for a Certificate of Compliance for a Temporary Dwelling Unit-Farm @ 14650 90th St. S. Planner submitted 04/27/10 report on findings for a 5 day Board review period. Planner and Attorney have reviewed and the request conforms to all applicable performance standards. Planner/Zoning Administrator will issue Certificate of Compliance Permit 2010-05-08, with the following conditions:

Scope of Use or Work: Applicant is hereby authorized to maintain a farm related temporary accessory dwelling unit on the property located at 14650 90th Street South (PID No. 1602720430005) for the purposes of housing an employee of the farm.

Special Conditions for Project Address: This Certificate of Compliance is issued based upon the findings contained in the planning report dated April 27, 2010 and is subject to all of the following special conditions:

1. The Certificate of Compliance terminates if at any time in the future those who occupy the temporary dwelling unit are no longer engaged in farming on the premises.
2. The Certificate of Compliance terminates at such time that the mobile home becomes the primary residence at the farm.
3. At the time of termination of the Certificate of Compliance, the mobile home serving as the temporary dwelling unit must be removed from the premises within 30 days.

DeBaker Certificate Of Compliance: Eric DeBaker request for a Certificate of Compliance to allow home occupation of an internet firearms store @ 14090 90th St. S. Planner submitted 04/27/10 report on findings for a 5 day Board review period. The proposed business conforms to all applicable performance standards. Planner/Zoning Administrator will issue Certificate of Compliance Permit 2010-05-09, with the following conditions:

Scope of Use or Work: Applicant is hereby authorized to conduct a home occupation in the dwelling located at the address indicated above. The authorized home occupation is limited to engaging in the sale of firearms primarily over the internet with on average no more than two or three customers visiting the property per month.

Special Conditions for Project Address: This Certificate of Compliance is issued based upon the findings contained in the planning report dated April 27, 2010 and is subject to all of the following special conditions:

1. Only the ATF Licensee may be engaged in the home occupation. Traffic must be typical of a single family residence. The business must not create a Nuisance as defined by the Development Code. Customer parking must be provided onsite.
2. Any firearms inventory must be kept in a locked gun safe. Use of the property as a Gun Range is not allowed. Customers and potential customers may not discharge firearms on the property.

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3. The Applicant must provide a copy of his license from the Federal Bureau of Alcohol, Tobacco, and Firearms (ATF) to the Township, within 30 days after the license is granted. The Applicant is responsible for complying with all terms and conditions of the ATF license.
4. The Certificate of Compliance expires on the same date that the ATF license expires, expected to be in July 2013.
5. Should the ATF license be revoked, the Certificate of Compliance terminates on the date of revocation.
6. Should the property be sold, the Certificate of Compliance terminates on the date of sale.

Ditch Mowing: Received 2 quotes for ditch mowing. Tri-County Services @ \$70 per hour. Yardmasters @ \$65 per hour. Yardmasters has done prior tree/brush/seeding work at the Town Hall. Tri-County has done prior work for the Township at O'Connor's Nature Preserve. Dixon recommends awarding contract to Yardmasters for a one year term, with requirement of proof of Insurance.

Motion Dixon/2nd Kramer to award the ditch mowing contract to Yardmasters at a rate of \$65 per hour, for a one year term, allowing a 20 day period for proof of insurance. Also, authorization to enter into a contract with Tri-County if Yardmasters unable to perform. All In Favor. Motion Carried 5-0. Attorney will draft contract.

Gravel: Received 3 quotes for gravel-3/4" class 5 limerock. Bryan Rock @ \$9.35 Ton delivered. Rumpca Excavating @ \$8.85 T. delivered. Tri-County @ \$8.83 Ton delivered. Dixon recommends awarding contract to Tri-County, with requirement of proof of Insurance. **Motion Dixon/2nd Kramer to award gravel contract to Tri-County at a rate of \$8.83 Ton delivered. All In Favor. Motion Carried 5-0.** Attorney will draft contract.

Dustcoating: Received 1 quote for Dustcoating services. Dustcoating, Inc. @ \$.74 per gallon magnesium chloride furnished and applied to the gravel roads. Approximate use 20,000 gallons. Town has used Dustcoating, Inc. for a number of years and has been satisfied with service. Dixon recommends awarding contract to Dustcoating, Inc., with inclusion of proof of Insurance. **Motion Dixon/2nd Kramer to award contract for Dustcoating services to Dustcoating, Inc. at a rate of \$.74 per gallon. All In Favor. Motion Carried 5-0.** Attorney will draft contract.

Potential Road Projects: In follow-up to the 04/21 road tour, engineer submitted potential projects and cost estimates for 2010.

Option 1: Crack Seal/sealcoating Fieldcrest 1st and 2nd additions-\$26,000. Eagle's Watch Addition-\$40,000.

Option 2: Shape/Pave 1 of the 3 unpaved miles of Neal Ave.-\$273,000.

Option 3: Reclaim/Overlay Maycrest Ave.(Hwy.60 to south end)-\$90,000.

Engineer recommendation- Completing Option 1. Crack Seal/Seal Coat \$66,000.

Option 1, because of estimated costs, would not require bid process. Engineer would be able to get quotes for June board meeting for review.

Dixon recommends completing routine maintenance of Crack Seal/sealcoating of Fieldcrest and Eagle's Watch. Due to economic concerns, would not recommend spending on paving or reclaim/overlay. Some shouldering needs were identified on the road tour. Would like to get quotes on shouldering some areas.

80th St. was shaped/paved in 1999. Some areas that have been patched are of concern. Engineer suggested entire length of 80th will soon need to be addressed. Dixon requested that if option 1 is approved, that at the same time, 80th Street patch areas could be looked at for patch quotes.

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Traffic Counts:

Traffic counts/pavement ratings (numeric value) will be done to assess condition of Town roads which will be affected by the Hwy 61 project detour. (127th/Morgan/120th), Neal Ave from 110th to 122nd, 122nd (St Croix Trail to Neal).

TKDA can field measure or do a condition review and prepare cost estimates for 2011 budget process. Traffic counts will be done on the Neal Ave. unpaved miles to supply Board with information to make an informed decision regarding future road projects during the 2011 budget process. Engineer will also review/supply information regarding 80th St. options.

Discussion re: Paving Neal. Considerations are traffic counts, maintenance costs, continuing paving from south to north, and bonding possibilities.
Striping 127th/Morgan section. Dixon will check with County regarding possibility of striping.
Intersection at Neal/Norell will be reviewed to possibly change from 3 way to 2 way stop. Engineer will bring back an evaluation for Board review.

Motion Dixon/2nd Keller to proceed with Option 1- Crack Seal/sealcoat Eagle's Watch, Fieldcrest and Fieldcrest 2nd Addition, to obtain quotes for 80th Street and other noticed areas needing patchwork and to get traffic counts as identified in attached discussion. All In Favor. Motion Carried 5-0.

Parks Study/Plans Information: Town Hall Park Phase 1- Site grade/turf play field relocation-includes misc. removals, site grading with storm water management, relocation of existing backstop, outfield fence between turf playfield & prairie and site restoration (est.\$41,000). Site survey & final design/construction documents (est. \$15,000).

Board consensus to authorize site survey and have TKDA put together estimate for planning/engineering fees. Construction work would begin after the September DTHS ballgame. The Parks Plan will be presented at the June 7th Board Meeting. The Plan is on the website and hard copies are available for review at the Town Hall. Information will be sent out in the next newsletter.

O'Connor Nature Preserve Phase 1- Clear & grub restoration area (est.\$10,500) and Prairie seeding (fall) (est.\$4500).

Discussion re: Parking lot-No bituminous necessary, small gravel parking lot. Consensus to hold off on parking lot until prairie restoration/planting has been established.

Consensus to install gate at entrance to block off driving access for protection of restoration site. Kramer to contact fence company to fence on west and add gate near entrance.

Motion Kramer/2nd Dixon to authorize TKDA to get quotes for clearing existing prairie restoration area and prairie seeding/maintenance. All In Favor. Motion Carried 5-0. TKDA will bring back quotes for Board review.

3M Incinerator Proposal-Cottage Grove: Output of incinerator affects Denmark. 3M is proposing to take solvents from other areas in the U.S. to burn. Concerns are impact of heavy metals within the solvents. Keller will bring information to Board in June, regarding appropriate Letter Of Support for Cottage Grove.

Red Rock Corridor: Issue regarding rail path going from Chicago to St. Paul as opposed to going through Rochester. Board consensus to support rail path from Chicago to St. Paul. Keller will arrange Letter Of Support for Chair to sign.

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Newsletter: Town picnic and Parks Study info will be sent out this month via newsletter.

Trash Hauling: Trash in ditches and timely pick-ups. Clerk will contact hauler regarding any special pick-ups.

Building Inspection Services: City of Cottage Grove has contacted the Town regarding their interest in providing Building Inspection Services. Cottage Grove proposal is 75% share for Denmark. Current contract is 40% share. Cottage Grove will provide code enforcement, but would prefer to work with Town liaison when dealing with code enforcement issues. Question re: sign on Cottage Grove vehicle identifying Denmark Inspection Services-Cottage Grove would not identify vehicles with Denmark name. Denmark will notify residents via newsletter/website and request that Cottage Grove instruct their staff to present a letter of notification that Cottage Grove is supplying Building Inspection Services for Denmark Township. Keller noted that Cottage Grove staff is good crew to work with. Board consensus to work with Cottage Grove for Building Inspection Services. Board aware Kennedy-Graven also represents Cottage Grove. Attorney noted that negotiating a contract with Cottage Grove shouldn't present a problem. Higgins will draft letter of thanks and termination for Inspectron.

Motion Keller/2nd Kramer to Thank Inspectron for years of service, giving 60 day notice to Inspectron to terminate Town contract with them, and to hire Cottage Grove based on its proposal to provide Inspection Services. All In Favor. Motion Carried 5-0. Attorney will review contract and revise as needed for negotiation with Cottage Grove.

Animal Humane Society: Town presented AHS with an agreement for animal services. AHS expressed concerns regarding some of the language. AHS has reviewed and finds revised agreement acceptable.

Motion Dixon/2nd Keller to enter into revised agreement with Animal Humane Society, as submitted by Attorney. All In Favor. Motion Carried 5-0.

Movie: Status of reimbursement for Town expenses due to movie production. Dixon will contact Movie Company to request reimbursement of expenses incurred (approximately \$600).

117th St. Plat: John Dwyer would like 117th St. plat finalized. This would legally record Denmark Township's road. Dwyer would cut his rates and anticipates the Town's cost to be under \$500, plus the cost of reproducing the mylars. Attorney suggested that it would most likely be more complicated. There would need to be significant legal work (titles, easements, etc.) done to clear and at perhaps a significant cost. Unsure of really where the Town is in the process. Board consensus not to proceed with plat at this time.

LEGAL REPORTS:

Status of Ordinance amendments: Clerk will send draft ordinance to Planning Commission for comments to get back to Chair by 06/01/10. Board will review draft with any planning commission comments at June meeting.

Herman Contracting vs Denmark: Court decision: Failure to provide performance/payment bonds resulted in breach of agreement, court finding in favor of the Township's position.

2009 Audit Letter- Attorney sent required legal audit letter re: pending or threatened litigation to Oberloh & Associates.

Rase-Suburban-Snaza: Litigation in court process.

Patton Development Agreement: Attorney in contact with Patton regarding signing of the DA.

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Clerk/Treasurer Performance Evaluation: Annual review date is April 1. Current monthly salary \$2293.20.
Motion Moore/2nd Keller to approve a 5% raise (\$114.66 per mo.) for the Clerk/Treasurer, effective 04/01/10.
All In Favor. Motion Carried 5-0. Approved salary \$2407.86 per month.

10:28 PM **Motion Keller/2nd Moore to close meeting and go into closed session under attorney-client privilege (13D.05) to discuss BWSR litigation. Board consensus that Town is in pending litigation, as the litigation has been dismissed without prejudice if negotiations do not bring resolution to issue.** All In Favor. Motion Carried 5-0.

10:40 PM **Motion Keller/2nd Kramer to reopen Board Meeting.** All In Favor. Motion Carried 5-0.

Report on closed session regarding BWSR litigation. The closed session was attended by Board Supervisors; Keller, Dixon, Higgins, Moore and Kramer, Township Attorney Troy Gilchrist. Board received updated information and discussed the matter in litigation with Legal. The closed session was held for the purpose of meeting with the Town's attorneys pursuant to the attorney-client privilege under Minn. Stat. § 13D.05, subd. 3(b) to discuss matters related to the current litigation of Denmark Township and City of Cottage Grove v. Minnesota Board of Water and Soil Resources, Valley Branch Watershed District, South Washington Watershed District and Dan Belka.

Board reviewed draft SWWD Boundary Change Petition, 05/2010 agreement and resolutions supporting and concurring with the petition.

Motion Keller/2nd Kramer to adopt the 05/2010 agreement between Cottage Grove, Denmark Township, Woodbury, SWWD, VBWD and Washington County, and Resolution 2010-04 Resolution Supporting The Petition From SWWD To The BWSR, Requesting A Boundary Change For The SWWD By The Transfer Of Territory Currently Covered By The VBWD and Resolution 2010-03 Resolution Concurring with the petition. Voting Yes- Higgins, Keller, Dixon, Moore and Kramer. Voting No- None. Motion Carries 5-0.

10:45 PM **Motion Kramer/2nd Dixon to adjourn.** All In Favor. Motion Carried 5-0.

Becky Herman
Denmark Township Clerk/Treasurer

Addendums Resolution 2010-03, Resolution 2010-04, Resolution 2010-05, Resolution 2010-06

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**SOUTH WASHINGTON WATERSHED DISTRICT PETITION FOR BOUNDARY CHANGE
RESOLUTION NUMBER 2010-03**

Resolution by Denmark Township concurring with the petition to add or transfer territory to the South Washington Watershed District.

RECITALS:

1. The Township of Denmark is a statutory or home rule charter city, town or watershed management organization with jurisdiction over area wholly or partially within the South Washington Watershed District.
2. That the Boundary Change Petition prepared by the South Washington Watershed District has been reviewed by the Township Board of Supervisors of Denmark Township, and subject to the terms and conditions of paragraph 4 (a-i) of said Petition, Denmark Township concurs with said Petition.

NOW, THEREFORE, BE IT RESOLVED the Board of Supervisors of Denmark Township is in concurrence with the Boundary Change Petition of the South Washington Watershed District to be submitted to the Board of Water and Soil Resources.

Adopted this 3rd day of May, 2010. **BY THE TOWN BOARD**

**DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
RESOLUTION NO. 2010-04**

A RESOLUTION SUPPORTING THE PETITION FROM SOUTH WASHINGTON WATERSHED DISTRICT TO THE BOARD OF WATER AND SOIL RESOURCES, REQUESTING A BOUNDARY CHANGE FOR THE SOUTH WASHINGTON WATERSHED DISTRICT BY THE TRANSFER OF TERRITORY CURRENTLY COVERED BY THE VALLEY BRANCH WATERSHED DISTRICT.

WHEREAS, the managers of the South Washington Watershed District (SWWD), in cooperation with the Valley Branch Watershed District (VBWD), Cities of Cottage Grove and Woodbury, Denmark Township, Washington County have agreed to transfer territory from the VBWD to the SWWD; and

WHEREAS, the Cities of Cottage Grove and Woodbury, Denmark Township Washington County, VBWD and SWWD have agreed to certain conditions in an agreement dated _____, subject to approval of the boundary change petition by the BWSR; and

WHEREAS, the petition, attached hereto as Exhibit A, embodies such SWWD boundary change.

NOW THEREFORE BE IT RESOLVED that the Township Board does approve the attached petition, and encourages SWWD to send said petition to the Minnesota Board of Water and Soil Resources, asking for boundary change of the South Washington Watershed District.

BY ROLL CALL VOTE OF THE TOWN BOARD: voting YES: Higgins, Keller, Moore, Dixon and Kramer.

Voting NO: none

THIS RESOLUTION IS ADOPTED THIS 3RD DAY OF MAY, 2010. BY THE TOWN BOARD

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DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
RESOLUTION NO. 2010-05

RESOLUTION APPROVING CONDITIONAL USE
PERMIT FOR THE PROPERTY LOCATED AT 14650
90TH STREET SOUTH OWNED BY JOHN STROHFUS

WHEREAS, John Strohfus (the "Applicant") is the owner of three properties located at: 14650 90th Street South, Hastings, Washington County, Minnesota, PINs 160272043004, 160272043005 and 2102720110001 and legally described in Exhibit A which is attached hereto and made a part of this Resolution (the "John Strohfus Properties");

WHEREAS, Mary Strohfus is the owner of two properties located at: 14680 90th Street South, Hastings, Washington County, Minnesota, PINs 1602720430001 and 1602720420003 and legally described in Exhibit B which is attached hereto (the "Mary Strohfus Properties");

WHEREAS, the John Strohfus Properties and Mary Strohfus Properties were originally owned by Norm Strohfus and a commercial horse boarding operation was conducted on the property, known as the "Strohfus Stock Farm;"

WHEREAS, as part of the settlement of Norm Strohfus's estate, three parcels of the operation consisting of approximately 70 acres were transferred to the Applicant and two parcels consisting of approximately 25 acres were transferred to Mary Strohfus;

WHEREAS, the Applicant and Mary Strohfus have submitted conditional use permit ("CUP") applications in order to be able to continue the commercial horse boarding operations on the John Strohfus Properties and the Mary Strohfus Properties;

WHEREAS, John Strohfus intends to continue to operate commercial horse boarding operations on both the Mary Strohfus Properties and the John Strohfus Properties as a single business;

WHEREAS, the Denmark Township Planning Commission held a public hearing on the requested CUP applications, considered the Town Planner's memorandum dated April 13, 2010 concerning the CUP applications, and on April 19, 2010 took action to recommend that the Town Board approve the requested applications for the CUPs with certain conditions;

WHEREAS, the Town Board hereby finds and determines the following:

- (1) The Properties are currently zoned Agricultural (A);
- (2) Commercial horse boarding operations are conditionally allowed in the Agricultural zone and require a conditional use permit;
- (3) The request is consistent with the Comprehensive Plan;
- (4) A CUP will be issued for commercial horse boarding operations on the John Strohfus Properties and a separate CUP will be issued for commercial horse boarding operations on the Mary Strohfus

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Properties even though it is contemplated that a single commercial horse boarding operation will be conducted on the properties. In the event that does not occur, two separate commercial horse boarding operations would be permitted to be operated on the properties;

- (5) The CUP application is consistent with the performance standards for commercial horse boarding operations as set forth Section 2.24 (3) of the Denmark Township Development Code;
- (6) The accessory structures on the John Strohfus Properties are in conformance with the Denmark Township Development Code;
- (7) All yard setbacks requirements are met;
- (8) The distance between the manufactured home on the John Strohfus Properties and the barn on the Mary Strohfus Properties do not conform to the 200 foot setback requirement. However, the separation distance is greater than the 50 feet that would be required if the dwelling and livestock were on the same parcel, so the proximity issue is not one of health and safety. In addition, the manufactured home is considered a temporary dwelling unit. Pursuant to Section 10.3 (2) and Section 15.2 of the Denmark Township Development Code, the Town may allow for continuance of nonconforming situations when considering a CUP. Furthermore, the Town granted a certificate of compliance for the manufactured home as a temporary farm worker accessory dwelling;
- (9) The sign request meets the Denmark Township Development Code requirements.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of Denmark Township hereby approves the CUP in order to allow the Applicant to conduct commercial horse boarding operations as described herein on the Properties, and the Applicant shall comply with all of the following conditions:

1. This CUP allows for a commercial horse boarding facility consisting of 70 acres with a maximum of 50 horses;
2. Pasture, manure storage, agricultural buildings, the arena and parking areas shall be in substantial compliance with the site plan submitted by the Applicant which is attached hereto as Exhibit C, with the exception that a manure storage area and an additional barn may be added to the operation, so long as all setback requirements are met;
3. Exterior lighting, including arena lighting must comply with the lighting requirements of the Denmark Township Development Code. Lighting must be shielded or downcast so that light cast on 90th Street does not exceed one foot candle meter reading at the centerline of the street, nor exceed .4 foot candles as measured at any adjacent property line;
4. A minimum of 10 off-street parking spaces must be provided. All parking needs must be accommodated on the Properties;
5. Exterior storage of trailers must be screened from view from 90th Street;
6. The operation must comply with all applicable Minnesota Pollution Control Agency regulations;
7. One two-side sign, with each side measuring no more than eight by four feet is permitted. The sign shall be located approximately 200 feet west of the driveway and be set back a minimum of 10 feet

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from the front property line. The sign shall have a maximum height of 10 feet measured from grade to the top of the sign. Sign colors must consist of only navy blue, gray or white;

8. Should any land governed by this CUP become separated from the operation, the CUP rights shall remain with PIN 1602720430005 which is the parcel that contains the barn and other major improvements necessary to the operation. A minimum land area of 45 acres shall be required at all times in order for the commercial horse boarding operations to be allowed to continue;
9. All fees and escrow amounts must be paid to fully reimburse the Town for its costs to process and act on the application;
10. A failure by the Town to take action with respect to any violation of any condition, covenant or term of this CUP shall not be deemed to be a waiver of such condition, covenant, or term or any subsequent violation of the same or any other condition, covenant or term;
11. Any alteration of the Properties or any plans, including but not limited to expansion of the use, shall not be permitted unless an amended CUP is issued by the Town Board;
12. The Applicant shall comply with all applicable federal, state and local laws, rules and ordinances, and obtain such other permits as may be required;
13. The Town may inspect the Properties at all reasonable times for purposes of ensuring compliance with the conditions of this CUP;
14. The Applicant shall correct all defects in the Properties which violate any of these conditions immediately, but in no case more than 30 days of receipt of written notice from the Town;
15. The conditions of this CUP shall run with the Properties and shall not in any way be affected by the subsequent sale, lease or other change from current ownership of the Properties and all references to Applicant herein shall include all heirs and assigns; and
16. Pursuant to the Development Code, periodic review of this CUP is imposed as a condition of its grant. Adherence to the terms of this CUP may be reviewed annually at the Annual Town Meeting. If any complaints are received which require Town review, the Town Clerk shall notify the permit holder of the date of the review at least ten (10) days prior to the review hearing.

Adopted this 3rd day of May, 2010.

BY THE TOWN BOARD

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DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
RESOLUTION NO. 2010-06

RESOLUTION APPROVING CONDITIONAL USE
PERMIT FOR THE PROPERTY LOCATED AT 14680 90TH
STREET SOUTH OWNED BY MARY STROHFUS

WHEREAS, Mary Strohfus (the "Applicant") is the owner of two properties located at: 14680 90th Street South, Hastings, Washington County, Minnesota, PINs 1602720430001 and 1602720420003 and legally described in Exhibit A which is attached hereto and made a part of this Resolution (the "Mary Strohfus Properties");

WHEREAS, John Strohfus ("Mr. Strohfus") is the owner of three properties located at: 14650 90th Street South, Hastings, Washington County, Minnesota, PINs 1602720430004, 1602720430005 and 2102720110001 and legally described in Exhibit B which is attached hereto (the "John Strohfus Properties");

WHEREAS, the Mary Strohfus Properties and John Strohfus Properties were originally owned by Norm Strohfus and a commercial horse boarding operation was conducted on the property, known as the "Strohfus Stock Farm;"

WHEREAS, as part of the settlement of Norm Strohfus's estate, two parcels of the operation consisting of approximately 25 acres were transferred to the Applicant and three parcels consisting of approximately 70 acres were transferred to John Strohfus;

WHEREAS, the Applicant and Mr. Strohfus have submitted conditional use permit ("CUP") applications in order to be able to continue the commercial horse boarding operations on the Mary Strohfus Properties and the John Strohfus Properties;

WHEREAS, John Strohfus intends to continue to operate commercial horse boarding operations on both the Mary Strohfus Properties and the John Strohfus Properties as a single business;

WHEREAS, the Denmark Township Planning Commission held a public hearing on the requested CUP applications, considered the Town Planner's memorandum dated April 13, 2010 concerning the CUP applications, and on April 19, 2010 took action to recommend that the Town Board approve the requested applications for the CUPs with certain conditions;

WHEREAS, the Town Board hereby finds and determines the following:

- (1) The Properties are currently zoned Agricultural (A);
- (2) Commercial horse boarding operations are conditionally allowed in the Agricultural zone and require a conditional use permit;
- (3) The request is consistent with the Comprehensive Plan;

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- (4) A CUP will be issued for commercial horse boarding operations on the Mary Strohfus Properties and a separate CUP will be issued for commercial horse boarding operations on the John Strohfus Properties even though it is contemplated that a single commercial horse boarding operation will be conducted on the properties. In the event that does not occur, two separate commercial horse boarding operations would be permitted to be operated on the properties;
- (5) The CUP application is consistent with the performance standards for commercial horse boarding operations as set forth Section 2.24 (3) of the Denmark Township Development Code;
- (6) The accessory structures on the Mary Strohfus Properties are nonconforming because they exceed the maximum area requirements. Pursuant to Section 10.3 (2) and Section 15.2 of the Denmark Township Development Code, the Town may allow for continuance of nonconforming structures when considering a CUP;
- (7) All yard setbacks requirements are met;
- (8) The distance between the manufactured home on the John Strohfus Properties and the barn on the Mary Strohfus Properties do not conform to the 200 foot setback requirement. However, the separation distance is greater than the 50 feet that would be required if the dwelling and livestock were on the same parcel, so the proximity issue is not one of health and safety. In addition, the manufactured home is considered a temporary dwelling unit. Pursuant to Section 10.3 (2) and Section 15.2 of the Denmark Township Development Code, the Town may allow for continuance of nonconforming situations when considering a CUP;
- (9) The barn on the Mary Strohfus Properties and the manure storage area do not conform to the 100 foot property line setback requirement. The intent of this requirement is to protect nearby properties from the effects of other's livestock. The need for protection is minimal in this case due to the fact that the adjacent property is owned by John Strohfus and is part of the commercial horse boarding operation. In addition, pursuant to Section 10.3 (2) and Section 15.2 of the Denmark Township Development Code, the Town may allow for continuance of nonconforming situations when considering a CUP.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of Denmark Township hereby approves the CUP in order to allow the Applicant to conduct commercial horse boarding operations as described herein on the Properties, and the Applicant shall comply with all of the following conditions:

1. This CUP allows for a commercial horse boarding facility consisting of 25 acres with a maximum of 26 horses;
2. Pasture, manure storage, agricultural buildings, the arena and parking areas shall be in substantial compliance with the site plan submitted by the Applicant which is attached hereto as Exhibit C;
3. Exterior lighting, including arena lighting must comply with the lighting requirements of the Denmark Township Development Code. Lighting must be shielded or downcast so that light cast on 90th Street does not exceed one foot candle meter reading at the centerline of the street, nor exceed .4 foot candles as measured at any adjacent property line;

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4. A minimum of five off-street parking spaces must be provided. All parking needs must be accommodated on the Properties;
5. Exterior storage of trailers must be screened from view from 90th Street;
6. The operation must comply with all applicable Minnesota Pollution Control Agency regulations;
7. Should any land governed by this CUP become separated from the operation, the CUP rights shall remain with PIN 1602720430001 which is the parcel that contains the barn and other major improvements necessary to the operation. A minimum land area of 25 acres shall be required at all times in order for the commercial horse boarding operations to be allowed to continue;
8. All fees and escrow amounts must be paid to fully reimburse the Town for its costs to process and act on the application;
9. A failure by the Town to take action with respect to any violation of any condition, covenant or term of this CUP shall not be deemed to be a waiver of such condition, covenant, or term or any subsequent violation of the same or any other condition, covenant or term;
10. Any alteration of the Properties or any plans, including but not limited to expansion of the use, shall not be permitted unless an amended CUP is issued by the Town Board;
11. The Applicant shall comply with all applicable federal, state and local laws, rules and ordinances, and obtain such other permits as may be required;
12. The Town may inspect the Properties at all reasonable times for purposes of ensuring compliance with the conditions of this CUP;
13. The Applicant shall correct all defects in the Properties which violate any of these conditions immediately, but in no case more than 30 days of receipt of written notice from the Town;
14. The conditions of this CUP shall run with the Properties and shall not in any way be affected by the subsequent sale, lease or other change from current ownership of the Properties and all references to Applicant herein shall include all heirs and assigns; and
15. Pursuant to the Development Code, periodic review of this CUP is imposed as a condition of its grant. Adherence to the terms of this CUP may be reviewed annually at the Annual Town Meeting. If any complaints are received which require Town review, the Town Clerk shall notify the permit holder of the date of the review at least ten (10) days prior to the review hearing.

Adopted this 3rd day of May, 2010. **BY THE TOWN BOARD**