

DENMARK TOWN BOARD MEETING MINUTES
January 4, 2016

SUPERVISORS PRESENT: Kathy Higgins, John Kummer, Karen Herman, John Strohfus

ABSENT: Joe Moore

STAFF PRESENT: Attorney Gilchrist (Kennedy-Graven), Engineer Stempski (Focus Engineering)
Planner Perdu (WSB)

CALL TO ORDER: Meeting called to order @ 7:03 PM by Chair Higgins

AGENDA APPROVAL: K Higgins added Turnkey Corrections Proposal. **Motion J Kummer/2nd K Herman approval of agenda as amended. Voting Yes- J Kummer, K Herman, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.**

CONSENT AGENDA APPROVAL: K Higgins pulled Claims. **Motion J Kummer/2nd K Herman approval of Consent Agenda items which include 12/07/2015 Board Meeting Minutes, EFT payments- PERA 357778, MN Rev. Tax 1030391872, Federal Tax 12241303, payroll ending 01/01/2016 and financial reports. Voting Yes- J Kummer, K Herman, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.**

Pulled Claims: To add claim received from City of Cottage Grove- Claim 10644 in the amount of \$5910.00, for Planning and Inspection services. **Motion J Kummer/2nd K Herman to approve Claims 10630-10644. Voting Yes- J Kummer, K Herman, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.**

HEARING DECISIONS/ZONING ACTIONS:

Wehking Variances- 16117 87th St S Applicant not present.

Applicant is requesting a variance to permit a single family residence with a 50 ft setback from the bluffline instead of the 100 ft setback required. Unique circumstance is that the bluffline is far into the lot.

Additional variances associated with the request are, a 32 ft variance from the minimum lot width at the building setback line to allow a 168 ft setback instead of the 200 ft setback required. A 0.61 acre variance from the minimum lot area to allow a 2.39 acre area instead of the 3.0 acre minimum lot area required, and a 160 ft variance from the minimum public road frontage to allow 0 ft road frontage instead of the 160 ft road frontage required, as the property is located on a private road.

Profile as viewed from the river is minimized. Applicant intends to removing 1 large tree and plant 11 new trees on the site.

Lot has been in existence prior to the 1982 Ordinances. Mr. Wehking has been in contact with both the County and DNR.

Planner submitted 12/14/15 staff report with recommendation to approve the variance requests.

Planning Commission reviewed the request at its 12/21/15 meeting and forwarded the Application to the Board with a recommendation to conditionally approve.

Attorney provided Board with 12/30/15 draft resolution and noted that it should be revised to include the 50 ft bluffline setback variance.

Motion J Kummer/2nd J Strohfus to adopt Resolution 2016-01 Granting Variances For The Property Located At 16117 87th Street South as amended by adding b. (4) A 50 ft variance to the bluffline setback. Voting Yes- J Kummer, J Strohfus, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

Note- must comply with spring road restrictions.

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Sunshare- Zoning Code Amendment to allow Solar Gardens in Denmark Township

Gary McDougall- landowner and representatives from Sunshare present: Mr. McDougall commented on his belief that solar gardens would be more beneficial to the town than having a manufacturing plant with its associated maintenance (employees, traffic, etc); benefits of planting 40 acres of natural grasses; energy will be produced with no carbon emissions; bird habitat will be improved; the lack of noise from solar gardens; marginal farmland will be improved by lying fallow for the next 25-30 years; herbicide and pesticide use will be reduced; solar panels will be buffered and screened; and that the number of potential solar farms would be limited in the town by the capacity of the substations

Sunshare Representative Dave Bergh states that Sunshare currently has eight sites permitted in Minnesota; solar gardens need to be in Xcel territory; typical operating length of a site is 25-30 years; any Xcel customer in subject or adjacent county can subscribe; consumers will receive approximately a 5% savings on their bill; all in the xcel territory are identified and sent marketing information; company fully decommission the site at the end of the projects life; Sunshare had over 750 people sign up over the past year

Board questions re: where subscribers can be (subject or adjacent County); length of contract for subscribers (25 years); is a production tax involved? (tax on a five MW system would be split 80% to the County and 20% to the Town. (Sunshare states tax amount would be \$1500 annually); a lease or purchase agreement with the landowner (lease agreement); Panel heights and setbacks (10 feet off the ground with setbacks the same as for structures); other projects in Washington County? (2 proposals/applications in Cottage Grove which were denied due to location within the MUSA limits; Other project locations? (one site in Dakota County, seven others in rural outstate Minnesota; Inquiries re: safety aspects (Fire Depts. are given keys to the fenced properties. Electrical state guidelines are followed)

Planner reviewed request and provided Board with 12/14/15 staff report.

Requested action is for an ordinance amendment that would allow solar gardens throughout the Township. At this time it is not about the details of the specific site presented. Currently the County Development Code does not allow commercial solar gardens. If the Board approves the ordinance amendment request, it would need to be conditioned upon similar language being adopted at the County level.

At its 12/21/15 meeting, the Planning Commission forwarded the request to the Board with a recommendation that the Board authorize the preparation and processing of an amendment to allow commercial solar gardens.

Town Ordinance is silent on commercial solar facilities. If the ordinance does not mention something as a permitted use, then it is not allowed. The Town currently permits and allows residential use of solar, as accessory use to a residence. The difference between residential and commercial solar is that residential uses are confined to that user and commercial use is sold.

PUBLIC COMMENTS:

Sheryl Crowe (Eagle's Watch)- Concerns regarding the noise. States that the company has only been in business since 2011, has concerns that companies come and go, who really will remain to stand by the 25 year project? Believes that lots with 12,000 solar panels do impact property values. Denmark is a pristine area of the Twin Cities. Commercial industry has taken over in empty lots in areas, which has caused property values to lower.

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Roger Burgmeier (113th St) Would be across from project; Concerned about size of project and screening/buffering ability; potential noise level: potential negative effect of fencing on wildlife; believes an environmental impact study should be done; concerned about compact residential areas next to the site; concerned about who would take care of site if company goes out of business; doesn't believe project fits into what the township is.

Tonya Brake (St Croix Tr/110th)- Questioned whether the lease would be binding if the property is sold; believes that neighbors will be affected by the long term impact; appreciates and doesn't want to impede property owners rights, but this isn't about the merits of solar; believes that property owners on St. Croix Trail would be impacted; notes that these type of gardens are an eyesore and shouldn't be called gardens; people who purchased property in Denmark didn't anticipate this; doesn't believe this should be allowed in residential areas; notes that other local governments are slowing these solar projects down.

Laurie Smith (117th St S) - Concern re an ordinance change to allow solar gardens and whether these would be allowed everywhere; Believes it is important to keep the Township rural. Understands and supports the concept of solar energy; Dakota County has a moratorium on solar gardens at this time; Believes that Denmark needs more discussion/ time to study to see if this is the way to go. Perhaps bring the question before the residents.

Kay Crowe (Eagle's Watch) - Had solar company propose a solar garden in the development. Concerned that if an ordinance amendment is approved, residents of the development will have to deal with continuous solar garden proposals.

Bob Barr (110th St S) - Planning Commission Chair. Proposal came before Planning commission. Unsure if he has enough information on issue. Researched as much as he could to prepare for hearing. Ultimately voted against proposal. Noted that two planning commission members were not in attendance at the hearing, so vote possibly could have been different. Recommendation to approve passed on a 2-1 vote. In support of what Sunshare is doing in the most part. Believes in green initiatives, solar energy and wind generation, but there is a right place to put it. Was part of the task force that put the Comp Plan together. The Comp Plan was guided by residents, farmers and business owners. The resulting Comp Plan weighed on him as he made his decision. The Comp Plan is not a based on a personal agenda. It was based on what the resident's want.

Comp Plan reflects the residents desire to retain a rural residential feel, preserve the nature of the Township. People love coming to the Township because of what we have to offer, parks and pristine area. We have a designated commercial area that would be more of a fit for commercial solar. Calling this a solar garden is a play on words. Doesn't see this as a garden in any form. See a commercial electrical plant, because that's what it is. It's generating commercial electricity. The reason other towns are pushing away from this, is because solar companies are for profit companies trying to sell to residents a power plant. This is a commercial entity coming into a agricultural area. Spoke to letter from Xcel Energy that went to the Public Utilities Commission. Point made in the letter is that there is a potential that the cost of electric will increase for people who do not sign up for commercial solar in their area. In September 2015, Xcel had commercial solar companies limit their projects to 1 MW. Current project is proposed at 5 MW. Sunshare indicated that after September 2015, a moratorium was put on to limit the size to 1 MW. Current application was submitted prior to that date.

Sunshare literature shows pictures of solar projects near airport and railroad tracks. Barr believes that these are the types of areas that commercial solar belongs These systems just go on the Xcel grid, they don't have to go in a neighborhood. There are a number of good areas that they could go in Washington County, not along a scenic by way or pristine areas. Denmark residents have asked us to maintain what we have.

Doug Erickson (113th St S) - Number of years ago, wasn't there a program in Denmark which would allow landowners to will their farms to the County, to stay as green space, rather than to be used in some commercial mode? Would this fit in this situation? Likely resident is speaking of Land & Water Legacy Program. A number of Denmark properties were enrolled in the program. We live in Denmark for a purpose and appreciating the green space is something we need to appreciate and take seriously.

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Township received three letters.

- 1) Janet & Don Saari (120th St) Not in favor of solar farms in the Township like the way it is currently, without an industrial look.
- 2) Rod Mattmiller (110th St S) 100% opposed to allowing a zoning ordinance change to allow commercial solar farms in the Township. Any other name given to this solar panel development should also be denied. Rural nature of the Township is vital to why we and others are here. Proposal is bad for the Township residents and has the appearance to benefit certain landowners financially and not nearly benefit the Township in the same way. Please deny any change to the Township Ordinance at this time.
- 3) Joe Moore Denmark Town Board Member 100th St S) If I were able to be present, I could not support the solar proposal being requested for consideration. Attended the Planning Commission meeting of 12/21/15 and with conflicts with our Comprehensive Plan discussed there, I would not be able to lend my support.

Ben (Cottage Grove Electrical contractor) - sells a significant amount of solar panels. Notes that electrical provisions in building code apply to solar Coal fire power plants and production of them will be less in the future but the demand will increase as the population increases. Cost per KW Hr will grow over time. Essentially, with solar subscribing, Xcel is locking in the rate now for the next 25 years.

Ryan Jager (110th St)- Solar gardens sound like a good neighbor to have. Would rather look at a solar field Questioned what a scenic by way does for Washington County. No gas stations or stores. Brings nothing but the noise of a busy road. What's the difference if a solar garden is there,, silent, generating for our future and our kids.

Harriet Brown (110th St)- There may be many folks who want these solar gardens. It's not always the landowner who initiates the want for solar panels. Has heard both sides. 110th St traffic is busy now. Everybody has their choices.

Board Members-

J Strohfus- Are we specifically addressing the issue whether or not to allow, or are we considering that if we would allow solar gardens, what the constraints around them would be. If some of the concerns could be addressed, such as visibility and property values, would there likely be more public acceptance? If we don't address this in the ordinance, it will likely keep coming up.

Attorney- Board is being asked the question, should we move forward with the process to allow commercial solar as part of the ordinance. At this time, the Board is not getting into what the performance standards would look like to address the screening, dismantling and other things that would be addressed as part of the language that the ordinance amendment would bring up.

Attorney provided Board with 12/30/15 draft resolution that would authorize staff to prepare the specific ordinance language that would then go back to the Planning Commission, for a hearing on the ordinance language. If adopted, this action would need to be on hold until/unless the county adopted a similar ordinance.

The Town would then need to assure that the Town language was as strict as or stricter than the County's.

J Kummer- Is very respectful of landowners and their property values.. All want certain things, but don't necessarily want it in our back yards. Some are permitted uses, and some as in this case haven't been addressed. This proposal seems too contentious and the issue has created enough interest in the community for him to make a decision tonight. Not sure if a moratorium is appropriate, property values are a concern, as is Gary's property value, if he chooses to select green energy for the use of his property, should he have that right. Difficult decision. If we do not approve as presented, how do we move forward with the residents of this community to find out where the right places for solar are. If we allow in the commercial district, are we favoring property owners in the commercial district. There are many facets to a decision and doesn't believe that he has heard enough. Not in a position to move forward. Needs additional research, for the residents, to see if there is a right place for this.

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Attorney- Although the Board has the authority to enact a moratorium, typically, a moratorium would not be enacted for something that is not allowed under the ordinance. The intent of a moratorium is to put a freeze on something to fully study or appreciate the issue.

Would recommend, if the majority of the Board is like minded, to direct staff to prepare a resolution to deny and extend the 60 day rule. Then, at any point the Board can look at this further and can establish their own amendment if they so desire.

K Herman noted that at this time since the County does not have an ordinance to allow commercial solar, the Town would essentially be designing an ordinance, putting it on the shelf to see what the County decides at some future date. To go through that process will cost money in Attorney fees. Cognizant of the fact that we do have a Comp Plan that the Township residents assisted in making their positions and wishes known. We are talking about having a commercial installation in a residential area. Not saying that a solar garden wouldn't be appropriate in some areas of the Township, but feel uncomfortable making a decision that will affect so many residents. Don't want to tell Mr. McDougall what to do with his land, but couldn't endorse consideration of a solar garden there at this time.

K Higgins- There were 355 responses to the Comprehensive Plan survey. , 310 (95%) of residents responded that agricultural land was very or somewhat important and 4% not important. Regarding the rural character of the Township, 317 (98%) responded that it was important or very important and 1% not important. Is uncomfortable making a sweeping change without input from all township residents. Proposal conflicts with the goals of our Comp Plan: which are to protect a base of long term agricultural land as a source of open space, rural character, and economic livelihood; Encouraging the continuation of commercial farming as a viable land use and significant economic activity; Establishing land use patterns that preserve and protect the natural qualities and existing character of the landscape: Maintain and enhance the value of agricultural, residential and commercial property; Support the right of farmers to farm; Encourage and explore land use options related to the preservation of open space. Note of apology to the landowners, noting that although she is a strong supporter of landowner's rights, but that means rights of everyone in the community who participated in the development of the Comp Plan. Cannot support recommending a change to the ordinance at this time. The Comp Plan will be reviewed soon and the question should be put to all township residents in a survey.

J Strohfus- Inquired whether there is something with the land that is preventing the current farm use to continue. Gary stated that the land is marginal farmland, the soil type- no good topsoil. Attempts over the past 20 years to bring the soil back into a good farmable state have proven to fail, which is why the landowner looked for a better use for the property.

Attorney noted that using the term "solar gardens" is from the State Statutes. J Strohfus noted that the State has been pro solar in promoting these programs and enticing companies who do business in the state, so Solar companies calling residents to subscribe is no surprise.

Motion J Kummer/2nd J Strohfus to direct staff to prepare a resolution to deny the request for an amendment to the ordinance to allow commercial solar gardens in Denmark Township, for review and action at the February Town Board Meeting, and to give notice to extend 60 day rule to allow for the preparation of a resolution with findings pursuant to the Town Boards direction for final action at its 02/01/16 Meeting. Voting Yes- J Kummer, J Strohfus, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

PUBLIC COMMENT: Ben (Cottage Grove resident)

Interested in the 30 acres which was platted (six 5 acre lots) as Homestead Estates Phase 2. Questioned if he purchased the 30 acres, and did not develop all the lots, would the proposed 77th Street still need to go in. According to the Development Agreement on the property, the public roads need to go in. Attorney noted that the property could be replatted, but may still need to have the road developed. If the property was replatted as one 30 acre lot, the road may not be necessary, depending on the proposed use. Two of the lots in Phase 1 are currently

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unbuildable until the street goes in. There are a number of Development Agreement issues associated with the property. The roads might possibly need to be vacated by the Board. Any new proposal would need to be reviewed. Attorney recommended a pre application escrow agreement to cover the cost of staff review to see what may or may not be possible. Applicant to contact Town if interested in pursuing this option.

BUSINESS ITEMS:

Gordon Herman Subdivision Concept: PID 15.027.20.23.0011 zoned Rural Residential (21.048 acres).

Applicant/Owner Gordon Herman present.

Applicant is proposing to create 4 single family residential lots, 2 outlots and a public road on the property.

The Development Agreement currently in effect for the property allocates 3 density units to the subject parcel.

Jon Sonnentag (consultant for Applicant)- Mr. Sonnentag does not believe that the Development Agreement on the property was intended to preclude the property owner from exploring an open space design, which would give him an additional lot. Applicant is proposing to create 4 lots. Sonnentag stated that after speaking to the County, the County indicated that from their standpoint they would be looking at the current parcel (21.048 acres) as 4 units for a base density and possibly 5 with a bonus lot.

Planner- Noted that the proposed lots shown on the yield plan do not meet the lot frontage and width requirements under the conventional subdivision design requirements. Nor does the proposed lot 3 appear to meet the public road frontage requirement on a cul-de-sac.

Attorney- in 2009, when the lot line adjustment involving this property came before the Board, there was approximately 24 acres. The DA established 4 total density units for this lot line adjustment- 1 to the smaller parcel and 3 to this subject parcel. When calculating density units to this parcel, the starting point should be the 3 density units that were, by the Development Agreement, allocated to this parcel. The DA does not restrict the Applicant from taking advantage of the Open Space Design.

The Open Space design gives 25% credit. 25% of 3 lots calculates at 3.75, not 4. Mr. Sonnentag states that if you looked at it when you had the original 2 parcels, 25% of 4 lots would calculate at 5. Noted that the town ordinance depicts a sketch of an example of the rounding up of lots for calculation.

Attorney noted that you can't base density on property that you no longer own.

J Kummer- there can be a discussion on rounding, however a DA that is signed and establishes that the 4 original density units were allocated as 1 unit for the small parcel and 3 units being designated to this parcel, is in place. Planner noted that because there is a DA, the base plan would be 3 units. You wouldn't step through the yield plan process if there is a DA already in place. The purpose of the yield plan process is to determine the density allowed on the site, and that has already been done.

Attorney- re the yield plan provisions. You have to start with 3. If after determining the maximum number of lots in the conventional subdivision, a lot could be created that meets 80% of the minimum lot size and otherwise meets all other lot requirements for the zoning district, then that lot shall be considered as 1 lot. Attorney opinion is that there is nothing in the Development Agreement that would prevent the Applicant from applying an Open Space Design.

K Higgins- noted that the County does not ignore the Township's DA, while Sonnentag noted that the County did not enter into the DA and are not bound by it. Attorney noted that whichever is the stricter will apply.

K Higgins- Questioned whether the precedent of rounding up has ever been set before, and if there has been any follow through regarding the County comment that the local street should tie into the driveway to the north. Sonnentag noted that the county would like the applicant to have a discussion with the owner and make the opportunity available, but that it would not be required. As far as platting a right of way to the property line for a future road connection to extend to 87th, unsure where the county stands on that. K Higgins noted that in speaking with the county, they indicated that they were strong on connecting to the north, to eliminate an additional access onto St Croix Tr, for safety factors.

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J Kummer- if need be, willing to move the driveway to the north, for a common entrance? Sonnentag- have not had the conversation with the landowner.

J Strohfus- Questioned ownership of the tower. K Herman- St Mary's Church. J Strohfus- Is it possible to have access with an easement on the church property? Sonnentag- could facilitate, have not addressed and do not object to it.

J Strohfus- is the road setback hindering any of the other setbacks? Sonnentag- not with the application of 3 rather than 4 units being used in the yield plan.

K Higgins- Setting a precedent is important. Don't want other residents coming in asking for the same.

J Kummer- Although there is a DA on this property, if there is nothing in the ordinance that prevents the Applicant from applying an Open Space Design to this parcel, and he could qualify for the 80% bonus and meet the other requirements, does not believe we are setting a precedent.

Planner added that applying the open space rules to the base density of 3, assuming that the road configuration and lot requirements could be made, with the 25% bonus, the density is still at 3.75.

Applicant will need to configure the lots to comply.

J Strohfus- supportive of landowner's interest to maximize property use, if it's a reasonable interpretation of the ordinance.

J Kummer- supportive as well.

Motion J Kummer/2nd Strohfus that the Town would be acceptable of the Open Space Design with 4 lots, if the Surveyor is able to produce a layout in which all lots comply with the requirements of the ordinance.
Voting Yes- J Kummer, J Strohfus, K Higgins. Voting No- None. Abstaining- K Herman. Motion Carried 3-0-1.

Sonnentag- any comment regarding road connectivity to the south? Or, any other layout issues?

KH-road connectivity to the south does not matter. Not practical or feasible. Too far to go through so much land, taking productive farmland. Connection to the north is worth pursuing, from a safety perspective- at least seeing if the property owner to the north is interested/willing.

Hastings Point: Attorney-Preliminary approval for Major SD has been granted. Final approval for Minor SD has been granted. Prelim and final approval for PUD has been granted. Final approval of the Major Subdivision will need to come before the Board. Developer is working on it. MnDOT review is outstanding. Some engineering still needs to be addressed. Legal is working on DA, road agreement and Stormwater/drainage agreement.

Afton Apple Amended Conditional Use Permit: Femlings left a message indicating that they were dropping their request.

Femlings submitted an application to amend their 2005 Conditional Use Permit for expansion of the existing building on the property. On 07/20/15 the Planning Commission forwarded the application to the Town Board with a recommendation to approval with certain conditions. At its 08/03/15 meeting, the Applicants indicated they were not certain whether they wanted to continue with the application, and requested additional time to consider whether to continue with the request or to revise the plans and start over with a new request. The Town Board approved the Applicants request to extend the matter to its 11/02/15 meeting. At the 11/02/15 meeting, the Applicants requested an additional 60 day extension to give the Applicant additional time to determine how they would like to proceed, and for the Board to take action at its 01/04/16 meeting. On 01/04/16 the Applicants left a phone message to the Town that they would not be proceeding with their application.

Denying the Applicant's request for an amendment to the CUP would preclude them from bringing forward the request for a period of 6 months, unless the new request is significantly different than the original one.

Motion J Kummer/2nd K Herman to adopt Resolution 2016-02 Denying A Requested Amendment To The Conditional Use Permit For The Property Located At 14421 90th Street South, based on Applicant's request to drop request, and as recommended by Legal Council. Voting Yes- J Kummer, K Herman, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

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2016 Sealcoat/Crack Seal: Engineer Stempski and Road Supervisor Kummer reviewed roads and determined the streets to be Sealcoated and Crack Sealed.

Fieldcrest development- Odell, Omar, Omar Court

65th (Oakgreen to Odell)

66th, 67th, 68th (sealcoat only, were crack sealed in 2013)

Paris (south of 110th) had new wear course lift in 2013-starting to crack

Mendel, Mendel Court, Morgan (120th-122nd)

Engineer's estimate (based on 2015 pricing) Sealcoat- \$80,000.00. Crack Seal- \$15,000.00 Total estimate \$95,000.00.

No planned Street Improvement or Reclaim projects. **Motion K Higgins/K Herman to approve 2016 Sealcoat & Crack Seal Maintenance project as submitted by Town Engineer and Road Supervisor, to be submitted to Cottage Grove for the Joint Services.** Voting Yes- K Higgins, K Herman, J Strohfus, J Kummer. Voting No- None. Abstained- None. Motion Carried 4-0-0.

11/02/15 Board Minute Revisions: To correct the 11/02/15 Board Minutes. Re: Consent Agenda Approval should indicate the correct date of the October minutes as 10/12/2015, and Motion J Moore/2nd K Herman approval of Consent Agenda items. **Motion J Kummer/K Herman approval of the revisions to the 11/02/15 Board Meeting Minutes as noted.** Voting Yes- J Kummer, K Herman, J Strohfus, J Kummer. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

Dog Ordinance: Attorney submitted 12/14/15 draft Dog Ordinance for Board review. Any comments/questions should be sent to the Attorney.

Turnkey Corrections Proposal: K Higgins, Town Attorney, Kevin Corbid (County) met with Turnkey Corrections regarding business proposal. Business is proposing to bring their business from Hudson, WI to Denmark Commercial District (Anytime Fitness property). Plans would include bringing 60 employees to the site, with the intent of adding an additional 10-12 employees/year for the next three years. A warehouse would be built on the site and manufacturing on site would occur.. They are requesting that Denmark participate in their application to the Department of Employment And Economic Development (DEED)/ supporting their business proposal, enabling them to obtain State funding.

Attorney noted that the Town would need to submit the application on behalf of the business. Attorney submitted draft resolution of support for Board review. **Motion J Kummer/2nd J Strohfus to adopt Resolution 2016-03 Support For Submission Of An Application To The Minnesota Department Of Employment And Economic Development.** Voting Yes- J Kummer, J Strohfus, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

LEGAL UPDATES- None

10:26 PM **Motion J Strohfus/2nd J Kummer to adjourn.** Voting Yes- J Strohfus, J Kummer, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

Becky Herman

Denmark Township Clerk/Treasurer

Denmark Township Chair

Addendum Resolutions 2016-01, 2016-02, 2016-03

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DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
Resolution 2016-01

**RESOLUTION GRANTING A VARIANCE FOR THE
PROPERTY LOCATED AT 16117 - 87th STREET SOUTH**

WHEREAS, Clive Wehking (“Applicant”) is the owner of property located at 16117 - 87th Street South, Denmark Township, Minnesota, which is legally described in the attached Exhibit A (“Property”);

WHEREAS, the Property is located in the Single Family Estate (SFE) District and the St. Croix River Management District (River District);

WHEREAS, the Applicant has requested a variance from the bluffline setback requirements, the minimum lot size requirement, the lot width requirement, and the minimum public road frontage requirement that are contained in the Denmark Township Development Code (“Ordinance”) to allow the Applicant to construct a single family home on the Property;

WHEREAS, the Denmark Township Planning Commission held a public hearing regarding the requested variance on December 21, 2015 and took action to forward the request to the Town Board with a recommendation that it grant the requested variance based on the presented findings and with certain conditions;

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

- a. The Planner’s Report (“Report”) dated December 14, 2015 regarding this matter is incorporated herein by reference, except that the conditions proposed in the Report are superseded by the conditions contained in this Resolution;
- b. The Applicant is requesting the following variances (collectively the “Variances”):
 - (1) A 50 foot variance from the minimum 100 foot setback to allow a 50 foot bluffline setback;
 - (2) A 32 foot variance from the minimum lot width at the building setback line to allow a 168 foot setback instead of the 200 foot setback required by the Ordinance;
 - (3) A 0.61 acre variance from the minimum lot area to allow a 2.39 acre area instead of the 3.0 acre minimum lot area required by the Ordinance; and
 - (4) A 160 foot variance from the minimum public road frontage to allow 0 foot frontage instead of the 160 foot frontage required by the Ordinance because the Property is located on a private road;
- c. Chapter One, Section 9.1 of the Ordinance permits the issuance of a variance where it is determined that, by reason of circumstances unique to the property not created by the landowner, the strict enforcement of the official controls would cause practical difficulties;
- d. A practical difficulty to support the issuance of the Variances arises due to the dimensions of the Property and the point at which it breaks to a 12% slope toward the river. Measuring a 100-foot setback from this point leaves very little buildable area on the Property. The approved location for septic tanks, drainfield and well further reduce the buildable area;

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- e. The conditions are unique to this Property and are not generally applicable to other properties within the same zoning classification or within the St. Croix River Management Overlay;
- f. The purpose of the Variances is not based exclusively upon a desire to increase the value or income potential of the parcel of land;
- g. The Applicant is proposing the home to be constructed in a configuration and out of materials that are visually inconspicuous to the maximum extent practical along the bluffline and River;
- h. The proposed project is not expected to have any significant impact on traffic or parking conditions in the area;
- i. The proposed project will not have any impacts on utility and school capacities;
- j. The proposed project does not conflict with the Town's Comprehensive Plan or the intent of the Ordinance;
- k. The proposed project is not expected to have any impacts on storm water runoff since impervious surface is consistent with Ordinance and grading plans have been reviewed and approved by the Town Engineer;
- l. Allowing the proposed variances would not be detrimental to the public welfare or injurious to other land or improvements in the vicinity of the parcel of land nor will it alter the essential character of the neighboring lots and locality. The proposed home will be located farther from the bluffline than the existing adjacent homes; and
- m. Allowing the proposed Variances will not impair an adequate supply of light and air to adjacent property, increase the danger of fire, or endanger the public safety.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board, sitting as the Board of Appeals and Adjustments, hereby approves and issues, based on the record of this matter, the Report, and the findings contained herein, the requested Variances to allow the construction of a single-family home on the Property conditioned upon compliance with all of the following:

- 1. Permits. The Applicant shall obtain all necessary approvals and permits prior to beginning construction.
- 2. Site Plan. The dimensions and layout of all site features shall match the site plan drawn by Cornerstone Land Surveying, Inc. dated October 27, 2015 and attached as Exhibit B. This includes the placement and footprint of the proposed home. Minor modifications to the site plans may be administratively approved by the Town Planner.
- 3. Grading, Drainage, and Erosion Control. The Town engineer shall review and approve grading plans for the proposed home prior to a building permit being issued.
- 4. Construction Materials. Any exterior decks shall be constructed of materials that are visually inconspicuous in summer months as viewed from the river.
- 5. Color of Structures. The exterior color of the new home shall be of earth or summer vegetation tones.

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6. Fees. The Applicant shall pay all planning, engineering, and legal fees and costs incurred by the Town for processing this permit application. In the event any fees are outstanding they will be paid by the Applicant within fourteen (14) days of receiving a bill from the Town. In the event the fees are not paid, this permit shall terminate automatically upon recording of a Notice of Nonpayment by the Town.
7. Inspections. The Town may inspect the Property at all reasonable times for purposes of ensuring compliance with these conditions.
8. Application. These conditions shall run with the land and shall not in any way be affected by the subsequent sale, lease, or other change from current ownership of the Property, and all references to the Applicant herein shall include all heirs, successors and assigns.

Adopted on the 4th day of January, 2016. **BY THE TOWN BOARD**

**DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
Resolution No. 2016-02**

**RESOLUTION DENYING A REQUESTED AMENDMENT
TO THE CONDITIONAL USE PERMIT FOR THE
PROPERTY LOCATED AT 14421 90th STREET SOUTH**

WHEREAS, Frank Femling and Cynthia Femling (“Applicants”) submitted an application to Denmark Township (“Town”) for an amended conditional use permit (“Amended CUP”) for the proposed expansion of the existing building located on property they own at 11421 90th Street South (PIDS 21.027.20.21.0001 and 21.027.20.24.0001) (“Property”);

WHEREAS, on June 26, 2005, the Town Board adopted an amendment to a conditional use permit on the Property to allow the Applicants to operate a business and to allow a seasonal business consisting of events, weddings, catering, bakery and greenhouse as an accessory use to the You Pick Produce Business. (“2005 CUP”);

WHEREAS, the Applicants requested the Amended CUP to add a 3,680 square foot addition to the existing building on the Property to run a seasonal business consisting of events, weddings, catering, bakery and greenhouse as an accessory use to the You Pick Produce Business;

WHEREAS, the Denmark Township Planning Commission held a public hearing on the Amended CUP on July 20, 2015, during which it heard from the Applicants and the public regarding the application. The Planning Commission acted to forward the application to the Town Board with a recommendation that it be approved with certain conditions; and

WHEREAS, the Town Board reviewed the Planning Commission’s recommendation at its meeting on August 3, 2015;

WHEREAS, at the Town Board’s August 3, 2015 meeting, the Applicants indicated they were not certain whether they wanted to continue with the application and requested additional time to consider whether to continue with the request or to revise the plans and start over with a new request. The Town Board approved the Applicant’s request to extend the matter to its November 2, 2015 meeting;

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WHEREAS, the Town encouraged the Applicants to attend the October 12, 2015 Town Board meeting to discuss their intentions regarding Amended CUP, but the Applicants did not attend;

WHEREAS, at its November 2, 2015 meeting, the Town Board exercised its option to extend the period provided in Minnesota Statutes, section 15.99 to act on the Applicants' Amended CUP request for an additional 60 days to once again provide the Applicants additional time to determine how they would like to proceed and to allow the Town's staff additional time to prepare the necessary documents so that the Town Board can act to either approve or deny the request at its January 4, 2016 meeting;

WHEREAS, the Applicants have not expressed to the Town a final decision on whether to continue with the Amended CUP or to withdraw the Amended CUP, nor have the Applicants submitted the additional information required to allow the Town to fully understand what is being proposed and to develop the necessary conditions to place on the Amended CUP;

WHEREAS, without a specific set of plans the Applicants have endorsed as what they plan to do with the property, the Town is not able to identify the applicable regulatory requirements; and

WHEREAS, the Town Board determines it is not in the best interests of the Town or the Applicants to approve the Amended CUP if the Applicants do not intend to use the Property in the manner requested, especially when the details of the proposed use will dictate the applicable building code regulations (which could be costly to comply with) and could have a significant impact on the existing use of the Property.

NOW, THEREFORE, BE IT RESOLVED, that, based on the Applicants' failure to indicate a desire to move forward with the requested amendment to the current conditional use permit and failure to provide specific plans regarding the proposed use of the Property, and further based on the record of this matter and the findings and determinations contained herein, the Town Board of Denmark hereby resolves as follows:

1. The Applicants' request for an amended conditional use permit to add an addition onto the existing building in order to run a seasonal business consisting of events, weddings, catering, bakery and greenhouse as an accessory use to the You Pick Produce Business is hereby denied.
2. The Town Clerk is hereby authorized to provide to the Applicants a copy of this Resolution denying their request.
3. Any future request for an amended CUP at the Property must be initiated by a new application submitted to the Town by the Applicants. Pursuant to Chapter One, Section 10.10 of the Denmark Township Development Code, a new conditional use permit application may not be submitted for a period of six months from the date of this denial.
4. The denial of the amended CUP does not repeal or otherwise affect the validity of the 2005 CUP or of any other permits or permissions currently issued for the Property.

Adopted this 4th day of January, 2016. **BY THE TOWN BOARD**

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DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
Resolution No. 2016-03

**RESOLUTION OF SUPPORT FOR SUBMISSION OF AN
APPLICATION TO THE MINNESOTA DEPARTMENT OF
EMPLOYMENT AND ECONOMIC DEVELOPMENT**

WHEREAS, the owners of Turnkey Corrections and Three Square Market (collectively, the “Businesses”) are considering relocating their operations to a property they are considering purchasing at 12181 Margo Avenue South (“Property”) within Denmark Township (“Town”);

WHEREAS, the owners met with representatives of the County and the Town and have requested assistance to seek funds to support the relocation of their Businesses from the State of Minnesota through programs such as, but not necessarily limited to, the Job Creation Fund Program offered by the Department of Employment and Economic Development (“DEED”);

WHEREAS, the host local government plays a direct, but limited, role in applying for and administering certain aspects of the funding program if funds are granted; and

WHEREAS, the Town Board determines that supporting the relocation of the Businesses to the Town is in the best interests of the community and the County has expressed a willingness to assist the Town in completing the administrative steps required of the local government under DEED’s programs.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board as follows:

1. The Town Board hereby expresses its approval of the owners’ proposed project to relocate their Businesses to the Town and approves its application for an award and/or rebate from the DEED Job Creation Fund Program and such other DEED program as the owners may request support from the Town as the local government.
2. The Town Chairperson and Town Clerk-Treasurer are hereby authorized and directed to complete such application forms, execute such documents, and to take such other actions as may be needed to fulfill the role of the local government in applying for funds and/or rebates for the Businesses from DEED and for completing such administrative procedures as may be required.
3. It is the intent of this Resolution to provide broad support for the relocation efforts of the owners and to authorize the submission of one or more applications to DEED, but any proposal requiring an expenditure of funds by the Town (other than to pay the claims of Town officials and staff to provide the assistance authorized herein), or to abate or otherwise forgo the collection of property taxes from the Property shall require separate approval by the Town Board.

Adopted this 4th day of January, 2016. **BY THE TOWN BOARD**