

DENMARK TOWN BOARD MEETING MINUTES
MARCH 3, 2008

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

ABSENT: Joe Moore

ALSO PRESENT: Attorney Gilchrist and Engineer Geheren

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

AGENDA APPROVAL: Higgins added Special Election. Geheren added FEMA update.

Motion Keller/2nd Dixon to approve agenda as amended. All in Favor. Motion Carried.

CONSENT AGENDA APPROVAL:

Motion Dixon/2nd Keller to approve consent agenda which includes 02/04/2008 Board Meeting Minutes, claims #8807-8825, payroll ending 03/01/2008 and financial reports.

All in Favor. Motion Carried.

HEARING DECISION/ZONING ACTIONS: NONE

PUBLIC COMMENT: NONE

BUSINESS ITEMS:

Bridge Repair: Mike Karlen and Bruce Dishinger, discussed the Hastings Bus Company plans to have a shuttle service Monday thru Friday during Bridge repairs, beginning in May. Possible locations in the Denmark industrial area as well as other possible areas were discussed for pickup/dropoff sites. Shuttle busses would be given priority access, along with school buses and emergency vehicles. Town Board in support of providing this service as a means to assist residents in dealing with traffic delays during Bridge repairs.

Charitable Gambling Permit: Missi-Croix Chapter, Ruffed Grouse Society requested a gambling permit for charitable gambling on 04/01/08 at The Point. **Motion Kramer/2nd Keller to approve gambling permit for Missi-Croix Chapter Ruffed Grouse Society.**

All in Favor. Motion Carried.

Planning Commission Appointments: Two applications were received for the two vacancies on the Planning Commission. **Motion Kramer/2nd Keller to appoint Charlie Grote and Steve Radke to the Planning Commission for a 3 year term.**

Motion Carried.

Moving Town Election To November: Board directed Attorney to draft a Resolution that would place on the November ballot, the question of Moving the March Town Election to November. **Motion Kramer/2nd Keller to approve Resolution 2008-03 Moving the Town Election To November. All in Favor. Motion Carried.**

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Resolution 2008-01 Rase Auto-Snaza: Board reviewed Rase Auto-Snaza Conditional Use Permit with revised language. **Motion Keller/2nd Dixon to approve language revisions in Resolution 2008-01 Rase Auto-Snaza Conditional Use Permit as drafted by Attorney (adopted on 02/04/2008).** All in Favor. Motion Carried. See addendum to minutes for full text of resolution. Board has received complaints from neighbors regarding paint fumes and the placement of parked trucks. Keller will speak with neighbor. Higgins will contact Inspectron to inspect for code compliance. Clerk requested approval to transfer funds from Suburban Trust (\$10,000) to Suburban Escrow account. **Motion Keller/2nd Dixon to transfer \$7,500 from Suburban Trust to Suburban Towing escrow and to write off balance of \$9720.11, per court settlement.** All in Favor. Motion Carried. Suburban Trust balance of \$2,500 will remain in Trust to cover code enforcement costs.

Homestead Estates Letter Of Credit: Homestead Estates \$75,000 Letter Of Credit will expire on 04/11/2008. Letter Of Credit needs to stay in place until construction and warranty periods are finished. Engineer will contact Mr. Femling to renew.

Open Space Compliance Inspection: Eagle's Watch, St. Croix Estates and Homestead Estates Development Agreements require an annual inspection per Development Agreements. Board authorized engineer to conduct inspections. Engineer will draft letter to Homeowner's Associations notifying them of inspections and fees.

Special Election: ISD 200 will have a special election on 06/03/2008. Denmark Township polling hours will be 7:00 AM to 8:00 PM.

FEMA Floodplain Update: Engineer is reviewing FEMA maps.

WMO Update: WMO is requesting early payment from Local Government Units. **Motion Keller/2nd Kramer to pay authorize early payment on April claims, as requested by the WMO.** All in Favor. Motion Carried.

The current formula for billing LGU's is based on 50% tax capacity and 50% area. Suggestion would be for formula to include population factor. Population within the WMO boundary is Afton 1279 residents, Denmark 1348 residents. Denmark pays 56% of the total costs.

The other issue is that the monitoring costs currently come out of the administration budget, (Denmark pays approximately 56% of administration budget). Monitoring costs would be fairer if based on subwatershed percentages in each community.

Board consensus that Denmark Township supports the concept of moving monitoring from the administration budget to the subwatershed budgets.

LEGAL:

St Croix Ridge- A number of issues with the development remain. The road needs a 2nd lift of asphalt. Pond issue needs to be dealt with. Mr. Reigel needs to submit stormwater

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modeling to show that a 100 year rain can be contained in the easement that was dedicated.
Motion Keller/2nd Kramer to authorize Attorney to proceed on exercising the Town's rights to collect on the Letter of Credit to finance outstanding work on St. Croix Ridge.
All in Favor. Motion Carried. Attorney will notice Jeff Riegel on Board's directive.

Erin Glen- Ted Collins has new legal counsel. Property lot line adjustment with Pflugi's has not been resolved yet. Town ordinance states that the final plat must be recorded at the County Recorder's office within 120 days of Board approval. The time can be extended with Board approval. New time extension would be 1 year after the Town granted final plat approval. Mr. Collins is requesting that the Board extend the period. Attorney recommends approval by the Board upon Town Attorney's review of amended document.

Motion Kramer/2nd Dixon to approve Erin Glen Development Agreement with the understanding that Attorney will review revised language, and to authorize Chair to sign amended agreement. **All in Favor. Motion Carried.**

Town will receive Mylars and final legal description. Engineer will review final construction plans.

Motion Dixon/2nd Kramer to adjourn. **All in Favor. Motion Carried.**
Meeting adjourned at 9:48 PM.

Becky Herman
Denmark Township Clerk/Treasurer

See attached addendum: Resolution 2008-01

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Resolution 2008-01

**DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA**

RESOLUTION NO. 2008-01

**RESOLUTION GRANTING A CONDITIONAL USE PERMIT
FOR THE PROPERTY LOCATED AT 11747 MANNING AVENUE SOUTH**

WHEREAS, Suzanne Snaza (the “Applicant”) submitted a conditional use permit (“CUP”) application related to her proposal to operate an automotive business on property located at 11747 Manning Avenue South, Hastings, Washington County, Minnesota and legally described in Exhibit A which is attached and made part of this Resolution (the “Property”);

WHEREAS, the Denmark Township Planning Commission held a public hearing on the requested CUP, considered the Town Planner’s memorandum concerning the CUP application, and on January 22, 2008 took action to recommend that the Town Board grant the CUP with certain conditions;

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

- (1) The Property is currently zoned Commercial/Industrial (C/I);
- (2) Automotive dealerships, automotive vehicle repair and outdoor storage are conditionally allowed in the Commercial/Industrial zone, and require a conditional use permit;
- (3) The Applicant proposes to use the property for auto body repair and painting, motor vehicle repair, twenty-four hour towing service and twenty-four hour snowplowing service, auto impound lot, used auto sale, and outdoor storage of trucks, trailers, lawn care equipment and excavating equipment;
- (4) The Applicant proposes to construct an accessory structure on the property;
- (5) A licensed engineer created a boundary survey and site plan for the proposed use;
- (6) Constructing the proposed accessory structure as set forth in the conditions as contained in this CUP would be consistent with the restrictions under the Denmark Township Development Code (the “Code”);
- (7) The Property satisfies the minimum lot size for the proposed use;

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- (8) The proposed use would comply with all required setback areas;
- (9) The proposed use otherwise satisfied or is consistent with, the factors set out in Section 10.3(1) of the Code.

NOW THEREFORE BE IT RESOLVED, that the Town Board of Denmark Township hereby grants the Applicant a conditional use permit to operate an automotive business as described herein and to construct an accessory structure on the Property subject to, and the Applicant shall comply with, all of the following conditions:

1. The rear storage area shall be paved in asphalt or concrete, or reasonable substitute if approved by the Township engineer, and completed by June 15, 2008.
2. A maximum of 14 for-sale vehicles may be displayed outdoors. Nine employee and customer parking spaces must be provided. All parking must be per the Site Plan dated January 11, 2008 modified as needed so that no parking occurs on any portion of the septic system (including the drain field). The Applicant shall provide the Town the modified site plan by June 15, 2008. The parking lot will be striped and handicapped parking identified.
3. The rear storage parking may hold at a maximum 105 vehicles, plus 13 semi-trailers.
4. Asphalt or concrete curbs must be constructed by June 15, 2008 to separate the parking area from the landscaped area.
5. Motor vehicle repair must be conducted inside the building.
6. The individual sewage treatment system must meet all Washington County Department of Public Health and Environment code requirements. Any parking surfaces created and/or paved must not cover any portion of the septic system.
7. The holding tank connected to the floor drain must meet all Washington County Department of Public Health and Environment code requirements. The holding tank and the flammable waste trap must be inspected and a copy of the inspection report shall be provided the Town by June 15, 2008. Applicant shall contact the Town at least 10 days prior to the inspection so the Town's inspector may be present during the inspection.
8. Storage and disposal of hazardous waste must conform to Minnesota Pollution Control requirements. The Applicant will annually provide the Town a copy of the hazardous waste disposal report it submits to the Minnesota Pollution Control Agency.
9. Exterior storage of salvage vehicles is prohibited.
10. The facility shall meet all building code requirements, including those specific to conducting motor vehicle repair and auto body repair.
11. Unlicensed/inoperable vehicles may be stored for a maximum of 35 days in the rear storage area. The applicant will keep a log of vehicles to track the 35 day time limit.

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12. Painting of vehicles, including personal vehicles, may only occur on the Property if it is within a paint booth that complies with all applicable federal, state, and local rules and regulations and then only after the Town's inspector has inspected the booth.
13. Towing and plowing vehicles may be stored in the rear storage area. Storage of large vehicles that would be visible over the fence shall be kept to a minimum, but shall not, together with the semi-trailers on the Property, exceed 13 and shall be moved to and kept in the southwest portion of the rear storage area to reduce their visual impact on the properties located to the rear of the Property.
14. Up to 40 tires may be stored under the existing metal covered entrance at the rear of the building so long as the tires are kept dry and do not accumulate water. Once the accessory building is constructed, tires will be stored inside and the metal cover will be removed.
15. Only the above described exterior storage of vehicles and temporary storage of tires is permitted. No other exterior storage, such as vehicle parts, lawn care equipment, snow plowing equipment, or trailers, is permitted.
16. Tow trucks shall not be parked in the front parking area.
17. A well must be installed on the property by June 15, 2008.
18. Up to one accessory structure may be constructed within the rear storage area. The building shall not exceed 3,024 square feet in area and 14 feet in sidewall height, and shall conform to all setback requirements.
19. Hours of operation shall be: 8:00 AM to 6:00 PM, Monday through Saturday. Operations after those hours are limited to the dropping off of impounded vehicles and tow truck repairs conducted within the building with the doors closed.
20. All areas of the property not devoted to building or parking areas must be maintained in landscaping, and the trees must be maintained and replaced as needed.
21. Signage must conform to Denmark Township Ordinance requirements.
22. The fence and gate must be maintained in good condition to provide screening and security.
23. No change in outdoor lighting may be made without prior approval of the Town Board.
24. The easement at the southern property line must remain clear of vehicles, landscaping and other materials, and any vehicles, landscaping, or other materials that become a barrier to access shall be removed by the Applicant or at the Applicant's expense.
25. All fees must be paid.
26. The Applicant shall comply with all applicable federal, state and local laws, rules and ordinances, and obtain such other permits as may be required.
27. Applicant agrees to and shall allow the Town, its agents, and inspectors to enter all portions of the Property to inspect during hours of operation. Applicant shall also allow the Town access to the records associated with the business conducted on the Property to the extent reasonably necessary to determine compliance with the conditions of this Permit.

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28. Applicant agrees to, and shall be subject to, the following enhanced enforcement procedures for 24 months from the date of the issuance of this Permit:
- a. Applicant shall correct any violation of this Permit, the Denmark Development Code, or of any federal, state, or local law, rule, or ordinance within the following periods:
 - i. Any violation related to the storage of unlicensed vehicles shall be corrected within 60 days of written notice by the Town of such violation; and
 - ii. Any other violation shall be corrected within 30 days of written notice by the Town of such violation. Corrective actions identified by the Town's Inspector as being minor must be corrected within a reasonable time as established by the Inspector or they shall constitute a violation of this Permit and the Town may provide the 30 days written notice of the violation and take enforcement and revocation actions as provided in this Permit or in the Town's Development Code.
 - b. If a violation is not fully corrected within the applicable cure period set out above, the Town shall have the right, in addition to all other enforcement and corrective measures available to it, to take action under District Court File No. C5 98-6049, which has been held open by the Court, to seek revocation of the Permit. The Applicant has agreed the only defense it will have to a request made by the Town to revoke the permit will be that no violation existed at the time of the notice, or that it had been cured within the applicable 30 or 60 day period. Curing the violation after the running of the cure period will not prevent revocation of the permit.
 - c. If the Town revokes this permit by an action initiated within 24 months from the date of issuance, Applicant agrees not to reapply for a conditional use permit from the Town for 12 months from the effective date of the revocation.
 - d. The Town shall retain \$2,500 of the funds the Applicant previously deposited with the Town and may deduct from that amount all costs it incurs for the administration of this Permit including all inspection and legal fees, enforcement costs, and all other costs related to this Permit completed or initiated within 24 months from the date of issuance. Any such costs the Town incurs in excess of \$2,500 shall be the responsibility of the Applicant and the Town may collect those additional amounts by any lawful means which may include filing a lien on the Property or

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assessing the costs directly onto the Property which the Applicant hereby consents to and agrees to waive any requirement for hearings, public notice, or any other procedure normally followed in obtaining an assessment pursuant to Minnesota Statutes, Chapter 429, or any other statute, in order to object to the amount of any assessment levied hereunder.

- e. If this Permit is not revoked by an action commenced within 24 months from the date of issuance the enforcement procedures related to this Permit shall be normalized in that they will revert to the usual enforcement procedures available to the Town under its Development Code and state law.
29. If the Property is unused for a period of two weeks, all automobiles and parts must be removed from the site and the Property restored at the Applicant's expense. If the automobiles and parts are not completely removed within two weeks from the date of written notice from the Town ordering such removal the Applicant hereby authorizes the Town to enter the Property and remove the automobiles and parts and to collect all costs incurred as a service charge on the Property under Minn. Stat. § 366.012, or by such other lawful method as the Town may choose to undertake.
 30. All prior conditional use permits issued for the Property are rescinded, revoked, or are otherwise invalid.
 31. A failure by the Town to take action with respect to any violation of any condition, covenant or term of the 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.
 32. The conditions of this CUP shall run with the land described 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 Applicant herein shall include all heirs and assigns.
 33. Pursuant to the Code, periodic review of this CUP is imposed as a condition of its grant. Adherence to the terms of this CUP will 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 4th day of February, 2008.