

DENMARK TOWN BOARD MEETING MINUTES
February 1, 2016

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

ABSENT: Joe Moore

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

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

AGENDA APPROVAL: K Higgins added Aurora. **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: **Motion J Kummer/2nd J Strohfus approval of Consent Agenda items which include 01/04/2016 Board Meeting Minutes, Claims 10645-10661, EFT payments- PERA 360858, MN Rev. Tax 1612019776, Federal Tax 02021617, payroll ending 02/01/2016 and financial reports. Voting Yes- J Kummer, J Strohfus, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.**

HEARING DECISIONS/ZONING ACTIONS: Erin Glen 6680 St Croix Trail S

Applicant/ owner Scott Goltz present.

Planner- proposal is for a major subdivision to create 11 residential lots. Applicant has corrected/submitted all requested.

SWWD review has been completed and determined that no changes to the lot configuration would need to be made and that the proposed subdivision meets their requirements.

Site Plan- minor discrepancies with lot width, septic field encroachments into the utility easements have been corrected.

Washington County has confirmed that the septic locations are in conformance with County Code. County requires that septic sites be protected.

Confirmation received from County that the surveyor's office will assign a road name consistent with uniform street name and numbering policy.

Received geo technical report that supported the cross section.

Tree inventory has been provided regarding removal of trees.

Planning Commission recommended approval of the preliminary plat with certain conditions. In addition to the Planner's 01/13/16 recommended conditions, the Planning Commission recommended that additional tree removal plan language be added to the conditions, the Engineer's 01/12/16 report be incorporated into the conditions, covenants be revised per the Attorney's recommendations, and added the requirement of rain sensors for irrigated lots.

Attorney drafted resolution for Board review noting that minor typos will be corrected.

J Kummer- Since the project is largely curb & gutter, base course should go through one freeze/thaw cycle before wear coarse is put on. Engineer will look at from a timing perspective.

K Higgins- Engineer recommended that a stormwater maintenance agreement that details operation and maintenance schedules and responsibilities be provided for Town and SWWD review. Attorney noted that historically the Development Agreement has detailed this, but can also be done as a separate agreement. Scott Goltz noted that this would be part of the covenants for the Homeowners Association.

Board noted that the applicant has done a good job in working with the Township.

No comments from the public.

Motion J Kummer/2nd J Strohfus to adopt Resolution 2016-04 Erin Glen Subdivision Preliminary Plat Approval, with noted minor corrections. Voting Yes- J Kummer, J Strohfus, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

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PUBLIC COMMENT: None

BUSINESS ITEMS:

McDougall/Sunshare Solar Ordinance Amendment:

Gary McDougall (owner) and Dave Bergh (Sunshare) present.

Planning Commission held a public hearing on the request on 12/21/15 and 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. At its 01/04/16 meeting, the Board heard from the applicants and the public, and directed staff to prepare a resolution based on its findings, denying the request. Resolution to be acted on at the 02/01/16 Board meeting.

Attorney- Applicants made a request to amend the zoning ordinance to allow as a conditional use solar gardens in all districts of the Township. Solar gardens are not expressly allowed in current Town or County ordinances. If the request is approved, it would not be able to go into effect, because the county has not allowed it. The Township cannot allow something that is less restrictive than what is allowed in the County ordinance.

Board received letter from Applicant Gary McDougall. Gary asked the Board to step back/slow down to see what the ramifications of the request could be. Main issue is that a solar farm does not support the Township's Comp Plan. Re: St Croix Tr. Rural character of the Township- property can be buffered (2-3 years). Solar on the property would result in clean water, clean runoff, no leaching of fertilizers, no noise pollution. Re: The property being farmed-Believes producing electricity is the harvested crop.

Public Comments-

Clem Kern (St Croix Tr)- Works at Prairie Island. See the plumes coming from there on a daily basis. Plant has years of built up waste. It is the cheapest form of energy, but comes at a cost. Accumulates waste that we can't get rid of and it gets harder and harder to move it over land. We need to get the vision, to get a clean source of energy. In support of this clean energy.

Lisa Hedin (Oakgreen & 110th)- From a policy perspective, requests that the Board not move forward with the resolution denying the use of solar farms, and move it back to the Planning Commission to take up with outreach to the community for a broader perspective. As a concept, solar gardens did not exist at the time the Comprehensive Plan was being developed for the Township, so the conversation of what rural character is in the Township, didn't include solar. Regarding the specific proposed location, comfortable with the responsible way business has been run on the property and would expect the same if leasing their land for solar.

Al Gorgus (Neal Ave)- Denmark is fortunate to have Carpenter Nature Center. They have taken the position that solar energy is a good thing and they have put solar panels on their buildings. They are a most environmentally friendly group and are in support.

Discussion Re: Grid limitations. Sunshare- there are certain areas that you can build and areas where you can't. Not able to build in Shoreland and ag preserve areas. Substation is in Hastings, and it can only handle a limited amount of power. The Aurora project will take some of that power out. The system is hooked up to feeder lines, and the solar projects have to be within a certain distance from the lines to make it possible.

The substation in Hastings can only handle a certain amount of MW, generated from solar farms adequately.

There is a finite amount of solar energy that can be generated from Denmark Township that can be accepted onto the grid.

J Kummer- There are strong opinions and interest on both sides. Board is respectful of property owner's rights. It is a scenic and rural township and much of the property will stay that way, through conservation easements and parks. Need to work through this to find compromise to address the scenic rural setting as well as green energy, and landowner's right to use their land. Will support the resolution to deny at this time, but there does need to be additional discussion going forward. Not enough public input at this time.

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Strohfus questioned why the process did not start at the County. Attorney noted that although the Town suggested that the applicant start at the county, the applicant did submit an application to the Town. Strohfus- significant issue before us. Prohibit for now, but should continue discussions to address the issue. Still in belief that this process should have started at the county, with Town input. As a landowner, also believes in property rights. The concern regarding visual impact can be mitigated with screening/buffering. Land values also a concern. Calling a commercial enterprise (solar gardens) on Ag land an agricultural product is a stretch. Regarding grid limitations, the grid capacity could change in the future. Expressed concerns on making a decision to allow solar gardens to everyone without certain conditions and restrictions around it. Also, does not like having to choose who gets it and who does not, because of restricted grid limitations. Noted that Town would still need support of county, additional data and plan before allowing.

Higgins- in favor of resolution before the Board tonight. Also, new comp plan being done, need to send survey out for resident input. Not comfortable with making this change with the small number of people that have been heard. Would like to see more residents have the opportunity to weigh in on this.

K Herman- Questioned whether there are any ongoing conversations between the county and other Townships that may be considering solar, or discussions regarding a county comp plan overlaying the entire county as far as solar energy. Also in agreement that more consideration/study be made before a final decision.

Applicant asked if the request could be tabled.

Options before the Board- Adopting the resolution to deny as is, adopt the resolution with additional language noting that the Town would work with the county regarding solar gardens as a use, or table the request with an extension.

Sunshare- Did meet with the county and did not get much information, so submitted application with the Township. Indicated that they would be contacting the county regarding their role/action regarding the request.

Motion J Kummer/2nd K Herman to grant the applicant's request to extend consideration of the application for an additional 180 days with the understanding that this extension is in addition to the number of days remaining in the current review period under the Town Board's extension of the 60 day rule, to allow sufficient time to consider the issue and communicate with the County and residents regarding solar gardens and proposed amendments to the respective development codes. Voting Yes- J Kummer, K Herman, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

Planner suggests that it would be useful to have informational meetings to start the conversation re: solar. Comp Plan review is coming up. Could possibly start early with a survey to residents. K Herman works for Commerce Dept, which includes the energy division. Suggested she find out if they have a team of people who could give a presentation. Strohfus suggested multiple meetings. Kummer requested that the planner figure out what percent of Denmark acres would be available for solar use (removal of Shoreland, Ag Preserve, any land not available). Planner will bring back options for the Board to consider.

John DeBaere: John DeBaere owns a 15 acre parcel home site in Denmark. His son Pat lives in the home and both John and Pat farm the property. John states he has also recently purchased a 30 acre parcel near the home site. DeBaere's are requesting the approval of a building permit to remove the worn buildings and replace with one new structure of equal square footage. Owner would like to improve the property and provided the Board with neighbor's signatures agreeing with his proposal. Currently there is a home, six accessory structures and a

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silo on the property. Current ordinance allows 2 structures totaling 4000 sq ft. Total sq footage of the buildings proposed to be removed (3 sheds, small grain bin and small shed behind bin) approximately 2874 sq ft. Applicant is requesting to replace removed structures with 1 structure approximately 2874 sq ft. New structure would be used for farm storage of tractors.

Attorney- Existing structures are a nonconforming use. If any existing structures are removed, the property is subject to the current ordinance, 4000 sq ft max. The remaining buildings would still be over the 4000 sq ft max. Removing the old and adding the new proposed structure would put approximately 7400 sq ft of accessory structures on the property. Board noted that the proposal would be improving the property and not increasing the sq ft of the existing structures. The notion that the property would be improved and the existing sq footage not increased, could serve as a basis for practical difficulty, for a variance.

Applicant will consider whether they will go through a variance process.

Animal Impound Housing Services Agreement: Agreement is renewed annually. No rate changes are being proposed. **Motion J Kummer/2nd J Strohfus approval of 2016 Animal Impound Services Agreement.** **Voting Yes- J Kummer, J Strohfus, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.**

MnDOT Turnback of old Hwy 10: Turnback process has been completed. Township will maintain/plow the road beginning 02/15/2016.

Washington County Land Use: County provided Townships with sample resolution which stated that the Township was requesting that the County amend its Comprehensive Plan and ordinance. Town Attorney has prepared a resolution more clearly reflecting the Town's position, acknowledging that the County can make the changes it is proposing without the Town's consent. Resolution also raises a number of other Town issues.

Motion J Kummer/J Strohfus to adopt Resolution 2016-05 Regarding Washington County's Proposal To Partially Withdraw From Administering Land Use Regulations. **Voting Yes- J Kummer, J Strohfus, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.**

2015 Financial Audit- Oberloh & Associates: Oberloh & Associates are proposing to perform the 2015 Financial Audit at a cost of \$4400.00. Price is same as last year.

Motion K Herman/2nd J Kummer approval for Oberloh & Associates to perform the 2015 Financial Audit at a cost of \$4400.00. **Voting Yes- K Herman, J Kummer, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.**

LEGAL UPDATES-

Aurora Geronimo Project: Public Utilities Commission approved multiple sites for Aurora project. The project includes preemption of local zoning. The project is subject to the State Building Code. Their attorney noted that they may not be in agreement that they are subject to building permits. Town Attorney, Building Inspector and Chair in discussions with Aurora regarding required building permits. Building Inspector maintains that permits for electrical and structures (excluding panels) would be required. Structure permit would be assessed by value. The State has a special fee schedule for solar projects. Aurora will review and get back to Town Attorney.

Dog Ordinance will be presented to Board in March.

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9:45 PM Regular Board Meeting recessed. Board of Audit opened.

Board Of Audit: Year ending 12/31/2015.

Supervisors Present- K Higgins, K Herman, J Kummer, J Strohfus. Absent- J Moore.

2015 Statement Of Finances

Year end account balances submitted as follows: checking account-\$145,445.57, general savings account-\$347,903.24, Cable Restricted account-\$10,577.25, and Park/Recreation Restricted account-\$137,599.14. Total cash balance \$641,525.20.

2015 revenues received by Denmark Township total \$557,472.64. 2015 expenditures made by Denmark Township total \$621,205.92. Receipt and Disbursement Registers, Statement of Receipts, Disbursements and Balances (Schedule 1) for all Township accounts and account balances for the year ending 12/31/2015 were entered into the record.

Check range for all checks disbursed 01/01/2015 through 12/31/2015, #11226 through #11485.

Board selected the following claims at random for review:

Check #11378	Claim 10554	\$4065.27	Approved 08/03/15	Claimant- Focus Engineering
Check #11406	Claim 10574	\$1452.08	Approved 09/08/15	Claimant- Joe Moore
Check #11291	Claim 10339	\$32.72	Approved 04/06/15	Claimant- Sentry Systems
Check #11364	Claim 10543	\$375.58	Approved 07/07/15	Claimant- Becky Herman
Check #11485	payroll	\$36.94	Approved 12/07/15	Claimant- Don Schneider
Check #11235	Claim 10444	\$55.65	Approved 01/05/15	Claimant- Becky Herman
Check #11295	payroll	\$46.17	Approved 04/06/15	Claimant- Bob Barr
Check# 11352	Claim 10531	\$138.00	Approved 07/06/15	Claimant Washington Co. Recorder/Registrar

Motion J Kummer/2nd K Herman to approve claims as randomly audited during the Board Of Audit, 2015 revenue/expenditure reports (\$557,472.64 in revenues and \$621,205.92 in expenditures) and 2015 year end account balances totaling \$641,525.20 as submitted. Voting Yes- J Kummer, K Herman, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

Clerk's statement of finances and all financial records will be submitted for the annual meeting.

9:59 PM Board of Audit adjourned. Regular Board Meeting reconvened.

10:00 PM **Motion J Kummer/2nd K Herman to adjourn. Voting Yes- J Kummer, K Herman, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.**

Becky Herman

Denmark Township Clerk/Treasurer

Denmark Township Chair

Addendum Resolutions 2016-04, 2016-05

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DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
Resolution No. 2016-04
ERIN GLEN SUBDIVISION PRELIMINARY PLAT APPROVAL

WHEREAS, 6680 St. Croix Trail, LLC (“Applicant”) submitted an application to Denmark Township (“Town”) for preliminary approval of a Major Subdivision to allow the subdivision of its property containing approximately 51 acres to create eleven (11) single family lots;

WHEREAS, the property to be subdivided is located at 6680 Saint Croix Trail (PID # 04-027-20-41-0001 & 03-027-20-32-0010) and is legally described in Exhibit A (“Property”), which is attached hereto and made part of this Resolution;

WHEREAS, the Applicant has represented that it has clear title ownership of the Property;

WHEREAS, the Planning Commission reviewed the request at a duly noticed public hearing held on July 21, 2015, which was continued to September 21, 2015. The Planning Commission’s consideration of the plat was then continued at the Applicant’s request and it came back before the Planning Commission on January 19, 2016. After consideration of the additional information provided by the Applicant, the Planning Commission voted to forward the application to the Town Board with the recommendation that preliminary plat approval be granted with certain conditions;

WHEREAS, the Town Board hereby finds and determines as follows:

- a. The Property is currently zoned Rural Residential (RR);
- b. Chapter 3, Section 7 of the Denmark Township Development Code (“Development Code”) allows major subdivisions containing four (4) or more lots and requires the submission and filing of a plat;
- c. The proposed major subdivision, to be named the plat of Erin Glen, contains eleven (11) lots (“Plat”);
- d. The available density for this Property was previously established by the Town Board;
- e. The newly created property lines will not cause any resulting lot to be in violation of the Development Code;
- f. The proposed public street (65th Street) to be dedicated as part of the Plat meets the requirements of the Development Code;
- g. The proposed right-of-way connecting the proposed 65th Street to the adjacent property to the north meets the requirements of the Development Code;
- h. The proposed Plat was prepared by a registered land surveyor;
- i. The proposed Plat will not have any significant impacts on utility and school capacities;
- j. The proposed project does not conflict with the Town’s comprehensive Plan or the intent of the Development Code;
- k. The Engineer’s report dated January 12, 2016 (“Engineer’s Report”) regarding this matter is hereby incorporated in this Resolution by reference;
- l. The Planner’s report dated January 13, 2016 (“Planner’s Report”) regarding this matter is hereby incorporated in this Resolution by reference, except for the conditions which are superseded by the conditions contained herein; and
- m. The proposed preliminary Plat is eligible for approval under the Development Code provided the Applicant complies with the conditions established herein.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board, based on the record of this matter, the Planner’s Report, and the findings and determinations contained herein, does hereby approve the preliminary Plat proposed by the Applicant subject to the following terms and conditions which must be met:

1. The Applicant shall enter into a Development Agreement that is satisfactory to the Town Attorney. The Development Agreement shall include provisions related to, but not limited to, constructing the planned public improvements in accordance with the approved plans, providing the Town financial security for the construction of such improvements, the maintenance of public improvements, and under which circumstances the Town will assume maintenance of the roads being built, payment of the park dedication fee, required covenants, and such other provisions as the Town Attorney determines are appropriate. Such Agreement must be fully executed within 60 days of final plat approval and before the Plat may be recorded with the County;
2. That a final plat be prepared which is consistent with the preliminary plat submitted January 15, 2016, the Development Code, and state law;
3. Grading plans shall be corrected to meet the terms and conditions provided in the Planner’s Report and the Engineer’s Report;

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4. The proposed connection to the cul-de-sac to the west shall be coordinated and approved by the Town;
5. The Applicant shall relocate conflicts where driveway connections align with proposed catch basins on Lots 1 and 4, Block 3;
6. Written approval must be provided from Washington County on the proposed turn lane improvements along St. Croix Trail prior to construction;
7. The Applicant shall update Sheet 12 of Applicant's plans from "Reconstruct and Transition Driveway..." to: (1) require the new driveway surface to match the existing driveway (i.e. bituminous or concrete material); and (2) require all disturbed areas to be restored with a minimum 6" of topsoil and seed/sod;
8. All well permits are subject to the requirements of the Minnesota Department of Health;
9. That the sewage treatment systems and their locations are approved by Washington County Department of Public Health and Environment;
10. Meet requirements for lot testing and septic site protection as noted in Chris LeClair's memo dated December 23, 2015;
11. All engineering consideration described in the Engineer's Report are met;
12. The Town Attorney reviews and approves all covenants to be recorded against the Property ("Covenants");
13. That the Covenants allow for removal of invasive tree species;
14. That the Covenants require all properties with in-ground irrigation systems must install rain sensors that regulate watering times based on moisture previously received;
15. The Applicant shall consult with an arborist to avoid damage to nearby trees when trees are removed within the construction limits. The arborist will also conduct a walk-through to confirm tree removals for construction of the road and which trees within the right-of-way could remain. The final tree removal plan shall be submitted to and approved by the Town;
16. The tree removal plan sheets must clearly identify each tree to be removed. Plan notes and details as necessary to provide a standard level of care when removing certain tree types and sizes must be added to the plans and signed by a certified arborist;
17. The tree removals plan sheets must also clearly identify each tree to be protected. A tree protection detail must be provided with adequate plan notes to be signed by a certified arborist.
18. Written approval of the proposed improvements (within or near the NSP Easement) must be provided from the owner of the NSP Easement;
19. All construction traffic shall be limited to using St. Croix Trail and not the Town's road;
20. That all representations, written and oral, made by the Applicant and the Applicant's agents and representatives to the Town contained in and concerning the application must have been true, complete, and accurate at the time they were made;
21. The Applicant must provide for the ongoing maintenance of the storm water facilities constructed within the plat by creating a homeowners association and making it responsible for such maintenance or by some other method acceptable to the Town Board. Alternatively, the Applicant may enter into a stormwater maintenance agreement with the Town;
22. The Applicant shall remain in compliance with all applicable laws, rules, and regulations concerning the Property;
23. That the required park dedication fee is paid;
24. That the Applicant satisfactorily completes any and all requirements after final review of the final plat;
25. That all fees, including professional fees incurred by the Town, and escrow amounts are paid;
26. The Town may enter the Property after providing reasonable notice to the Applicant or Owners, at all reasonable times to conduct inspections for the purpose of ensuring compliance with this approval. Prior notice to inspect the Property is not required in the event of an emergency.

Adopted this 1st day of February, 2016. **BY THE TOWN BOARD**

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DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
Resolution No. 2016-05

**RESOLUTION REGARDING WASHINGTON COUNTY'S PROPOSAL TO PARTIALLY WITHDRAW FROM
ADMINISTERING LAND USE REGULATIONS**

WHEREAS, Washington County ("County") notified Denmark Township ("Town") and the other townships within the County that it is considering amending its Comprehensive Plan 2030 and the Washington County Development Code to limit the scope of the County's land use regulations;

WHEREAS, the County has requested input from the townships regarding its proposal to no longer regulate certain aspects of land uses, but to retain and continue to administer the following regulations: Lower St. Croix River Bluffland Shoreland Management Ordinance #14; Official Map Ordinance #68 and Ordinance #73; Subdivision Ordinance #131 and Ordinance #177; Shoreland Management Ordinance #134; Mining Ordinance #140; Floodplain Ordinance #180; and SSTS Ordinance #196 (collectively the "Retained Regulations");

WHEREAS, the Town Board hereby finds and determines as follows regarding the County's proposal:

- a. The Town adopted and has administered land use regulations since 1960;
- b. The County can make the changes it is proposing without the Town's consent;
- c. The Town has a good working relationship with the County and the cooperative administration of land use regulations with the County has benefitted the Town;
- d. The Town is not currently interest in solely administering mining, bluffland, shoreland, floodplain, or SSTS regulations;
- e. Given the scope of the Retained Regulations proposed by the County, it is not clear how the changes will practically affect the Town and its residents;
- f. Because the County has not drafted a proposed amendment to its development code it is difficult for the Town to evaluate how the changes may affect the administration of the Town's development code, particularly given the amount of overlap that will occur between the Town's land use regulations and the County's Retained Regulations;
- g. It seems clear the proposed changes will require the Town to incur the time and expense of amending its comprehensive plan as well as its development code to adjust to the changes in a way which remains consistent with the requirements of Minnesota Statutes, section 394.33, subdivision 1; and
- h. The Town previously requested the County amend its subdivision regulations to exempt one lot subdivisions from its platting requirements, as was the case prior to 2008, to allow the owners to avoid the costs associated with the platting process. The Town Board believes the implementation of the County's proposed changes seems an opportune time to make the requested amendment.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board that it does not oppose the County exercising its authority to amend its comprehensive plan and development code as it proposes, though it must be recognized that a great deal of work will be needed in order to identify and resolve the potential issues associated with the County's administration of its Retained Regulations and the Town's administration of its underlying land use regulations.

BE IT FINALLY RESOLVED, the Town Board reaffirms its request for the County to amend its subdivision regulations to exempt one lot subdivisions from the platting requirements.

Adopted this 1st day of February, 2016. **BY THE TOWN BOARD**