

DENMARK TOWN BOARD MEETING MINUTES
May 4, 2020

This meeting was conducted via telephone conferencing pursuant to the Chairperson's statement issued under Minnesota Statutes, section 13D.021.

SUPERVISORS PRESENT: Kathy Higgins, Shawn Racine, Bob Rucker, Ron Simon, John Strohfus

ABSENT: None

STAFF PRESENT: Attorney Gilchrist (Kennedy-Graven), Engineer Geheren (Focus)

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

AGENDA APPROVAL: Motion R Simon/2nd S Racine approval of Agenda as revised. Voting Yes- K Higgins, S Racine, B Rucker, R Simon, J Strohfus. Voting No- None. Abstaining- None. Motion Carried 5-0-0.

CONSENT AGENDA APPROVAL:

Motion S Racine/2nd B Rucker approval of Consent Agenda items which include Board Minutes 04/06/2020, LBAE Minutes 04/14/2020, Special Board Minutes 04/16/2020, Claims #11528-11543, EFT payments- PERA 554877, MN Tax 0242404896, Federal Tax 64754723 , payroll ending 05/01/2020, Financial Reports. Voting Yes- K Higgins, S Racine, B Rucker, R Simon, J Strohfus. Voting No- None. Abstaining- None. Motion Carried 5-0-0.

HEARING DECISIONS/ZONING ACTIONS: None

BUSINESS ITEMS:

2020 Street Improvement Public Hearing: Purpose of the hearing is to hear testimony and to consider making improvements to 120th St S (310 ft east of Margo-Morgan) and Morgan (120th-122nd). The area being proposed to be assessed includes properties abutting these streets or properties that gain driveway access to their property from these streets. Estimated total cost of improvements is \$370,000.00. This hearing is on the project itself, to discuss whether it should occur and its scope. The Town received written comments from 6 individuals. All written comments are posted on the website as a part of the 05/04/20 Meeting Packet and have been provided to the Board and made part of this record.

Engineer Geheren- Project Presentation- Engineer hosted two neighborhood meetings on 04/28/2020. Nine homeowners participated in the neighborhood virtual meetings. Presentation included information on reclaiming, grinding up and recycling the existing blacktop and gravel of the street to make a new base, followed by subgrade correction as needed and installation of new pavement and restoration. Two foot gravel shoulder will be placed adjacent to the roadway, areas with manicured lawns will be replaced with topsoil and seeding. No geometric changes to the roads or to the Morgan/122nd St intersections are being proposed. Proposed is a 7 Ton design. To upgrade the design to a 9 Ton standard, would be much more costly as it would require reconstruction of the entire road, with additional sub-base in certain sections. Town road improvements are funded entirely by the Township (tax revenues) and the Town receives no funding from County or State. Financial needs for road improvements exceed available annual Township tax revenue.

Assessment Policy was adopted in April to partially fund street improvements. Policy calls for 75% of the improvements to be assessed, with an assessment cap of \$7,500 per parcel. Subject project includes 14 benefitting parcels. Assessment revenue would be \$105,000, which would be 28% of the improvement cost. Assessments can be paid in full up front without interest. If not paid in full, assessments would be placed on property owner's taxes for a 10 year period plus interest. The interest rate would equal the coupon rate (if bonding) plus 2% or as set by the Town Board. If project moves forward, the project schedule includes the assessment hearing, prior to completing the improvement, which is allowed by statute. Town Board to consider a resolution to adopt proposed assessments on 06/01/20. Contractor bids for the project are expected to be complete by 06/22/20, with the Board accepting bids and awarding the contract on 07/06/20. Estimated construction completion date is 10/09/20.

Board Discussion:

R Simon- clarification of Town, County and State road funding. State roads are funded by the State of MN and County roads are funded by the County. Township is responsible to fund local Town roads.

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J Strohfus- In review of parcels, number of multiple parcels owned by a single owner. Of the 14 potential assessed parcels, 2 parcels are owned by the same property owner, which would cause the assessment of \$15,000 to the owner.

Public Comment-

Hassan Sahouani 120th St S- Would like the process to be fair and equitable. Believes roads are not traveled the same. 120th is not used mostly by those who live on 120th. It is used by a number of vehicles including trucks. Also, those in the homes on Mendel should be a part of the assessments because they also benefit of the use of 120th St.

Duane Fowler Morgan Ave S- State takes care of state roads and County takes care of county roads. To this point, the Township has taken care of the Town roads. Fair that all people in the Town pay for all the Town roads, everybody uses the roads. Improvements should be built to 9 Ton standards.

Dave Screation 120th St (Ag parcel property owner)- farms the parcel, uses the road maybe 20 times a year. Policy does not work for farmland in Denmark Township.

Jeff Carlson 120th St S- Re: 7 T vs 9 T. Doesn't want the road to get too heavy, as it encourages even more truck use. Question the current road T. Is the road being build to satisfy that type of traffic and if not, is there a way of not allowing trucks on 120th. Or, if a detour occurs in the future, that 120th is not allowed to be a detour route. What discussions have gone on re: restrictions on the roadway.

Cara- Recommend posting road restrictions during the spring, to restrict certain traffic loading. Township would need to speak with enforcement in regard to the posting. With geotechnical work that has been done, certain areas have been found where the base underneath the road needs to and will be corrected. Resident noted that enforcement is not being done. Also, does not believe the road is designed for what its use is right now. If posted, needs to be enforced. K Higgins noted that the road is posted during road restrictions.

J Strohfus- Road is posted. Town does not have direct enforcement capability; Town has made calls to Washington County DOT enforcement. The posted signs are understood by drivers, and professional truck drivers are looking for posted weight limit restrictions and are abiding by them. Roads will be evaluated to address weak points to meet the structural integrity of the 7 Ton design.

Duane Fowler Morgan Ave S- What is the tonnage weight of 90th St S? J Strohfus- Believes it is 7 Ton, would have to look at the sign that is posted. Residents have called regarding tonnage restrictions and nothing is ever enforced. Need to build the road up for bigger vehicles or post and enforce for a resident street.

Levi Muhl Morgan Ave S- the road is being used as a thoroughfare road. The entire Township should be a part of paying for the road. Believes road work/assessments that would be for those living on roads like Mendel (used primarily for the residents living there) will not happen as often as those on thoroughfare roads like 120th/Morgan. Would support cost of road improvements go through general tax payments Township wide.

Schwartz 120th St S- Discourage use as a thoroughfare, discourage larger vehicle use by using speed bumps, lowering the speed limit.

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Public Comment Portion Closed

J Strohfus- Board has struggled with road maintenance challenges and has tried to be respectful and fiscally responsible by not increasing taxes year after year. It's important to remind that we currently do not have a policy in place like some communities that have all of their streets done at one time and have bonded themselves, which has both positives and negatives. Proud how the Board has managed finances to do the improvements that we have done. Current taxation policy is not fair. Many residents living on gravel roads have complained, yet the 35% taxes put on them year after year are charged to those who do not use the trunk area paved roads. Also, those along gravel portions of Neal would pay for those assessments if paved, which would be equitable, but are on a main trunk. Absent of doing a large bond, there is no comprehensive road plan to pave every road in the Town. This was a step change policy to avoid significant 30+% tax increases for the next 2-4 years and to start to spread some of that burden onto the benefitted property owners. In response to resident comments regarding Ag parcels: Strohfus noted that he is sensitive to the farming/agriculture aspect of this, which is why he voted against

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the assessment policy. Multiple parcels that are owned by the same families for estate planning or other purposes cause assessment costs to be an undue burden even outside of agriculture.

R Simon- agree comments were helpful. Board has covered many of the topics the public has commented on and needed to reach a fair resolution which is what the Board has come up with now. Re: speed limit. Town has requested speed study from MnDOT. Question whether the density on the roads would allow the Board to address a speed limit change without having to go through MNDOT first. Questioned whether a lower speed limit would extend the life of a road. Cara- speed limit itself would have no bearing on the structural impact on the road. Vehicles drive the speed that they are comfortable driving. If a road were arbitrarily posted lower, there would be a need to have around the clock enforcement to have people comply with it, as a sign would not just do it.

B Rucker- One thing that may not have been considered is moving forward, we bond funds for next year, will that increase our levy for next year? We need to review the roads and identify which roads need to be fixed, have a budget meeting, and determine how much funding we need over the next 3-5 years, on top of the levy increase.

K Higgins- Would agree with B Rucker's comments. The other issue is that we have an estimate of the cost to patch Morgan/120th right now, which is a minor cost \$4000. Currently have a budget shortfall due to the approval of sealcoating Maycrest and 80th St sections in 2020 but that cost of \$37,200 wasn't budgeted for. Propose considering using the 2020 budgeted road funds to do the sealcoating projects that weren't budgeted, do preliminary work at Eagle's Watch, do the patching on 120th/Morgan and delay the 120th/Morgan street improvement project until 2021. Also, we have not done any research/prep on bonding yet. This is a difficult time to be holding a hearing because residents cannot be heard and seen in person. Also, because of the pandemic, people are already experiencing hardships.

S Racine- One thing not addressed is that for a number of years we keep deferring the roads. Our infrastructure keeps deteriorating. These roads are just a couple of the many roads that need to be fixed. In looking out at the 5 or 10 year for roads, even with bonding we would keep going into the hole. Surrounding communities such as Woodbury and Cottage Grove also do road assessments. Need to start somewhere, and these are the roads we start with and continue this trend moving forward to start making up for what has been sometimes just patched (but have been good) over the past 20 years. This seems like the most economical way to start getting some cost sharing brought in by the property owners who will get a benefit, like an appraised value increase to the property.

B Rucker- Agree with S Racine but believes if we take a large bond and do a lot larger project(s) at one time, we will get better prices. A lot of the roads are failing, would rather see us get through a lot of roads at one time rather than what the plan before us is right now.

S Racine- Know we can get best use of our money in bidding as the project gets larger but in looking at this project, the roads were so dilapidated that they moved up quicker to be done. Could be put off another year and reassess during the road tour. Does this project need to be done this year, or can we wait and look at a larger project to include more roads?

J Strohfus- Concerned that we have delayed Eagle's Watch three times now. Typical road projects have been about \$250-300,000. Eagle's Watch is now estimated to be over \$600,000. Denmark is fortunate on the pricing that we have historically received on its road projects. Believes during this covid climate we have some good competitive bids this year. Concerned going to a massive bonding right away because the Town has never done that. The public that is not paying attention to the assessment policy right now may have additional heartburn about moving to a very large bonding because this has not been part of the Town Policy so far. Because up until a few years ago, we have not had a need for that. Still a proponent of moving forward with a road project because we need to continue to make some progress. On the road tour we identify at least 5 or 6 roads that needed to be addressed this year and we are delaying them out further.

K Higgins- How do we realistically- budgeted \$400,00 this year (originally intended for Eagle's Watch), and we know it will cost at least \$600,000. If we attached the Eagle's Watch project and the 120th/Morgan project into a larger bond issue for next year, and then this year patch what we need to on 120th/Morgan and also deal with the sealcoating budget shortfall.

S Racine- concerned that this is giving us the tendency to go back to year after year moving these roads back another year. Once we go on the road tour there will be more roads that are showing signs of wear. So next year it may not be these two but a third one that has to be brought in and it will just continue compounding as these roads have a max of 20 year life expectancy. Need to get one road started.

K Higgins- how would be even go on a road tour this year. Nothing has been discussed or scheduled.

B Rucker- Need to move forward on the roads. If 120th was just a mill and overlay and the base was good, I would say do it, but the base will need to be rebuilt, so the road really cannot get a whole lot worse by not doing it

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this year. We patch it. There are a number of roads that do need to be done. We need to evaluate our roads and decide what roads are in the poorest condition and go forward with those. A minimal number of people like Shawn, John and Ben do the road tour evaluation.

R Simon- Town did a road tour and the same road projects are being identified. 120th/Morgan has consistently been identified. Another road tour will confirm what has only already been identified. Have to start a process to get something accomplished. Regarding 120th/Morgan, months of work have gone into this to this point. Could go into bonding if we wanted to enlarge the scope of the project, but we need to get this done.

Attorney- In order for this to continue as a special assessment improvement project, the Board would need to vote 4/5 approval on the resolution in order to move forward with the project.

J Strohfus- Clarification that the resolution vote is on the project 120th/Morgan and not on the policy. Policy was adopted at a prior meeting.

Draft Resolution includes ordering the improvement, approving the plans and authorizing the advertisement for Bids for the project. Adoption of the resolution requires 4/5 approval vote by the Board.

Motion R Simon/2nd S Racine to adopt Resolution Ordering The Improvement, Approving The Plans, and Authorizing The Advertisement For Bids For The 2020 Street Improvements Project (120th St S & Morgan Ave S). Voting Yes- S Racine, R Simon, J Strohfus. Voting No- K Higgins, B Rucker. Abstaining- None. **Motion Failed 3-2-0.**

Engineer- Preparation, plans and specs for the project were previously ordered by the Board. May make sense to complete the engineering plans should they be needed for next year's project. K Higgins- supports completing the plans. J Strohfus also would like the engineering completed. Engineer also noted that if the Board is intending on also adding on Eagle's Watch roads for a 2021 project, they would recommend completing feasibility report, design and geotechnical work for Eagle's Watch, to bid early for the project in 2021.

R Simon- in support of completing any work required to facilitate readiness for both 120th/Morgan and Eagle's Watch projects for 2021. Engineer will place Eagle's Watch Feasibility Report approval on Board agenda. Engineer will draft letter to residents regarding outcome of 2020 Street Improvements. Sealcoat contract award is scheduled for June Meeting.

Street Sweeping- Tri-County swept commercial district streets in 2019 at a cost of \$650. Tri-County estimate for 2020 \$650. **Motion J Strohfus/2nd S Racine to approve Tri-County Services estimate in the amount of \$650.00 to sweep the commercial district streets 2020.** Voting Yes- K Higgins, S Racine, B Rucker, R Simon, J Strohfus. Voting No- None. Abstaining- None. **Motion Carried 5-0-0.**

Broadband Proposal: Nick Jablonske

Mr Jablonske, owner of SE MN Wifi, is proposing to install wifi in Denmark Township, to service a number of residents. Possible neighborhoods, Osprey, Panama/Paris, Maycrest (which is already being served by applicant).

Attorney- If cable TV services are not being proposed, applicant would only need right of way permits from Denmark. Applicant confirmed that this is for internet only and not for cable TV services.

Mr. Jablonske- Applicant is requesting pre-approval of the right-of-way permits to install wifi in the Township. System would be made available to a number of neighborhoods. Company has had a number of requests for SE MN Wifi service.

Propose speed 100 Mb, but the infrastructure put into the ground would support much greater speed if needed in the future.

R Simon- Number of requests. Applicant indicated that there would be 80-100% of people in a neighborhood would take the service.

Attorney- any above ground facilities being proposed? Headend of the unit would be placed on a utility pole 12-20 ft high (1 per neighborhood) to get line of site back to the 122nd St tower. The rest of the network would run underground.

S Racine- like mesh system? Any information on 5G concerns? Applicant- not like a mesh system. This is full blown fiber optic. 5G is a wide range of frequencies and the dangerous ones are probably the least dangerous radio waves around. 5G is just another iteration of technology, no more dangerous than 4G LTE.

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Attorney- Is the project planned in stages or will all the neighborhood be installed at the same time? Applicant is currently at the feasibility stage and is looking for pre-approval for ROW permits so they can go to the next level which would be putting together an estimation of costs that will be put out to each neighborhood. Applicant does not want to go forward on the project without knowing if the Township would or would not allow the permits. Attorney would recommend authorization for the Town Engineer to work with the Applicant. Board consensus to authorize Town Engineer to work with SE MN Wifi on the scope of work for the right-of-way permits.

Town Board Chair K Higgins:

The town board has initiated both a criminal and a civil action against Ken Cordes regarding a zoning violation on his property and needs to discuss these cases with its attorneys. Therefore, **Motion K Higgins/2nd R Simon to go into closed session pursuant to Minnesota Statutes, section 13D.05, subdivision 3(b) for an attorney-client privileged discussion regarding the criminal and civil cases the Town initiated against Ken Cordes.** Voting Yes- K Higgins, S Racine, B Rucker, R Simon. Voting No- None. Abstaining- None. Motion Carried 4-0-0. (J Strohfus not on call)

Motion K Higgins/2nd S Racine to re-open Board Meeting session. Voting Yes- K Higgins, S Racine, B Rucker, R Simon, J Strohfus. Voting No- None. Abstaining- None. Motion Carried 5-0-0. (J Strohfus back on call)

Motion J Strohfus/2nd B Rucker to authorize Town prosecutor to appeal the Judge's decision on the Cordes matter. Voting Yes- K Higgins, B Rucker, R Simon, J Strohfus. Voting No- None. Abstaining- S Racine. Motion Carried 4-0-1.

10:12 PM **Motion S Racine/2nd R Simon to adjourn May 2020 Board Meeting.** Voting Yes- K Higgins, S Racine, B Rucker, R Simon, J Strohfus. Voting No- None. Abstaining- None. Motion Carried 5-0-0.

Becky Herman

Denmark Township Clerk/Treasurer

Denmark Township Chair