

DENMARK TOWN BOARD MEETING MINUTES
July 6, 2009

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

SUPERVISORS ABSENT: None

ALSO PRESENT: Attorney Gilchrist

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

AGENDA APPROVAL: Higgins added Code Enforcement, Hastings Family Service, Zoning Requests and Escrow Accounts. Keller added Rumpca Pit Status. **Motion Keller/2nd Kramer to approve agenda as amended.** All In Favor. Motion Carried 5-0.

CONSENT AGENDA APPROVAL: Higgins pulled Claims. **Motion Kramer/2nd Moore to approve balance of consent agenda, which includes 06/01/2009 Board Meeting Minutes, PERA EFT 109139, payroll ending 07/01/2009 and financial reports.** All In Favor. Motion Carried 5-0.

Pulled claims will be addressed later on the agenda.

Public Comment:

Re: Rumpca Pit Status. Agenda item discussed later in the minutes.

Re: Homestead Estates. Agenda item discussed later in the minutes.

St Croix Trail Residents- A group of property owners on St Croix Trail requested Board review of issues arising from two neighboring landowners (on St Croix Trail and on 122nd) using their property for motorcycle exhibitions. Issues include noise, adding of a major amount of dirt to the property-land alteration, devaluation of property and erosion issues. This has been an ongoing nuisance for a number of years. The activity has increased and the riders are no longer youth riding small dirt bikes, rather adults with adult size cycles. The consistent noise is affecting the quality of daily life. A large amount of dirt has been brought onto both properties to create motorcycle running tracks. The tracks are not just being used by the landowners but by others as well. Residents submitted pictures of the areas to the Board. Residents have contacted the land owners and tried to bring some resolve to the problem. This worked for a short period of time, but now their attitude is that they are going to run the cycles when they want to. The county has reviewed a property near the bike track and has determined that the property is devalued because of the track.

Town Attorney reviewed and discussed complaint and ordinances. Board consensus to direct Inspection of the properties and to authorize Legal to draft letter to the property owners detailing the complaints and ordinances. Attorney will review the possibility of additional options. Residents will contact Washington County and MPCA officials.

Rygh Administrative Lot Split-DNR: Mike Rygh, on behalf of Rygh, LLC is requesting a lot split which will divide a parcel containing 40.48 acres from his property (in the area of 90th & Oakgreen). The applicant is proposing to sell the lot to The Trust for Public Land together with other parcels to be placed in a public trust, known as Lost Valley Prairie Scientific and Natural Area.

Peggy Booth, MN DNR program supervisor-Natural area is currently 200 acres. Proposal would add 120 acres to the area. Primary parking area is on the South side near Nyberg and 110th. An Additional access will be provided by a private driveway to be established to the lot. MN DNR will manage property for the purpose of a permanent Scientific & Natural Preserve. Town will receive payment in lieu of taxes.

Attorney submitted draft resolution for Board review. Amendments to the draft resolution include: property zoned Ag with a density of 2 dwelling units per 40 acres. The density allocation after the split will be:

DENMARK TOWN BOARD MEETING MINUTES
July 6, 2009

Combined number of density units on the lot is 2. Combined number of density units on the property retained by Rygh is 2. Conditions amended: 1) Applicant shall enter into a development agreement drafted by the Town within 90 days of the date of the Resolution. 2) If lot is not transferred to the Trust for Public Land within 180 days from the date of this Resolution, the split shall become void. 7) Applicant demonstrates that the taxes are paid in full no later than the entering into the Development Agreement.

Motion Keller/2nd Dixon to adopt Resolution 2009-07 Resolution Approving An Administrative Lot Split For The Rygh Property Located In Section 20, with noted modifications.

All In Favor. Motion Carried 5-0.

Attorney will draft Development Agreement, Chair to sign.

Roads Maintenance Contract: Attorney update: Outstanding issues. The insurance coverage for general liability in combination with the umbrella policy will provide the necessary coverage. Attorney has been working with Gordy's insurance agent to acquire the required bonds. CNA Surety had concerns with the contract language requiring a 3 year bond. They would like to issue an annual bond. Attorney stated that the contract does not require a 3 year bond, but does require that the bonds be for the total estimate amount of the work to be performed, over the entire period of the contract. Attorney revised the contract language to include the provision that the bonds could be for a 1 year term with annual renewals. The Bond Company also had concerns regarding time limits on response of services. Attorney added language to the contract to reflect reasonableness of the response times. Insurance company reviewed and declined the revised contract with a statement that they did not like the additional verbiage and felt the changes regarding the renewals made the contract more disagreeable than the original contract. As of the Board meeting, the Bond Company has not agreed to issue the Bonds. Contractor present and had not secured bonds. Contractor inquired on possibility of getting any names on bond companies that do issue performance/payment bonds. Attorney stated that bonds have always been required by the Town in regards to street improvement contracts, and the names of the Bond Companies that have issued bonds could be given to anyone making the request for that information.

At this point, Board options include cancelling the contracting process and rebidding the combined summer/winter contract with 1, 2 or 3 year terms, or splitting the contract to separate summer and winter contracts with 1, 2 or 3 year terms.

Motion Dixon/2nd Kramer to cancel the current contract with Herman Farms & Contracting for lack of obtaining the required performance & payment bonds. All In Favor. Motion Carried 5-0.

Motion Dixon/2nd Kramer to re-bid the road maintenance projects with separate summer and winter contracts each with 3 year terms. Staff authorized to proceed with process. Clerk directed to expand advertising request for bids. All In Favor. Motion Carried 5-0.

Board consensus that Attorney, Dixon and Higgins review contracts and policies and if needed, to revise/add any language that is beneficial to the Township. Attorney noted that it will be important to review to assure that contracts and policies are consistent with each other.

4-H Grant Request: A grant request letter was received from Dan Dolan for Washington County 4-H. State Auditor's office has issued a position statement addressing the use of public funds for donations. Attorney stated that by statute, the Town Board has no authority to donate Township funds to private clubs. Any authority to disburse such funds would need to come by vote of the Electors at an annual Township meeting. Higgins will draft response letter to Mr. Dolan.

DENMARK TOWN BOARD MEETING MINUTES
July 6, 2009

2009 open Space Inspections: TKDA submitted open space inspections for Eagle's Watch, St. Croix Estates and Homestead Estates. Clerk will send reports and billing to homeowner's associations.

Pulled Claims: Town in receipt of Inspectron 06/30/09 billing for code enforcement inspections in the amount of \$437.50. **Motion Dixon/2nd Keller to add Inspectron billing to claims for approval as claim # 9183 and to approve payment of all claims #9165-9183. All In Favor. Motion Carried 5-0.**

2008 Financial Audit: Board received 2008 Financial Audit reports conducted by Oberloh & Associates. **Motion Keller/2nd Dixon to approve 2008 Financial Audit. All In Favor. Motion Carried 5-0.**

Collins Escrow Balance Refund Request: Erin Glen development will not be moving forward. Ted & Brenda Collins have requested a refund of their escrow balance. Attorney would like to make sure that any time extensions which were placed on the development have expired. Attorney and Clerk will research.

Motion Kramer/2nd Keller to table refund request until review has been done. All In Favor. Motion Carried 5-0.

WMO Update: Woodbury has appealed BWSR decision of the enlargement of the SWWD.

Parks Study Meeting Dates: Possible dates reviewed for next Parks Study meeting. No Board consensus on an agreeable date. TKDA will be advised to contact interested parties for additional possible meeting dates.

2010 Budget Meeting: Meeting to prepare 2010 Budget recommendations set for 08/13/2009@ 5:00 PM.

Rumpca Pit Status: Keller briefly reviewed site. 50-60 loads have been removed, not much more activity expected. Fence not yet complete. Berm appears to be about the right height. Keller will continue monitoring conditional use permit requirements.

Commercial Zoning Requests: Higgins reported that there have been commercial zoning requests from companies which process Coal slag and distribute propane. Planner not sure these proposals would be in compliance with Denmark's Comp Plan or ordinances. Higgins directed to contact companies and indicate that these proposals would not be in the best interest for Denmark Township.

CUP Hwy's 61 & 95: Report received of non permitted use on this property. Inspector will check status.

Hastings Family Service: Higgins reported that the Hastings Family Service would like to address the Board at a future meeting to present their outreach available to residents of Denmark Township.

DENMARK TOWN BOARD MEETING MINUTES
July 6, 2009

LEGAL UPDATES:

Rase/Suburban/Snaza: Property Inspections continue as some violations still remain.

Mississippi Critical Area: Proposed Bill has been revised from original content, softening some of the requirement for Towns.

Homestead Estates: Frank Femling spoke regarding outstanding issues on the development. He is still working with bank regarding letter of credit and wear course. Requested Board review the necessity of annual open space inspections. Expressed concern on requiring variance for over length cul-de-sac. Expressed concern on consistency of open space density units. 2008 Open Space fees have been paid. Minimum escrow balance of \$2500 has been received. Variance will be needed for over length cul-de-sac. Frank will submit application for the variance. Subordinate Service District can be petitioned for by the developer. Petition would outline the district to encompass the road and any lots placed into it. Creating a district would not place a time deadline on the final wear course. Developer could still independently place the final wear course. If Town places the final wear course, they could assess the lot owners included in the district. Attorney will work with Frank to proceed with a Subordinate Service District Plan, and submit to Board for August review.

10:30 PM **Motion Keller/2nd Kramer to adjourn.** All In Favor. Motion Carried 5-0.

Becky Herman
Denmark Township Clerk/Treasurer

Addendum Resolution 2009-07

DENMARK TOWN BOARD MEETING MINUTES
July 6, 2009

DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
Resolution No. 2009-07

RESOLUTION APPROVING AN ADMINISTRATIVE LOT
SPLIT FOR THE RYGH PROPERTY LOCATED IN SECTION 20

WHEREAS, Mike Rygh, on behalf of Rygh. L.L.C., ("Applicant") has applied for an administrative lot split for the property described as follows:

[we are in the process of obtaining a corrected description from the surveyor]

("the Property");

WHEREAS, the proposed lot split will divide a parcel containing approximately 40.48 acres from the Property which consists of the parcels labeled as Lot 1 and Lot 2 on the map attached hereto as Exhibit A and described in the attached Exhibit B (the "Lot");

WHEREAS, the Applicant is proposing to sell the Lot to The Trust for Public Land together with other parcels to be placed in a public trust with significant restrictions on how the land can be used, including prohibitions on the land being developed for residences and other limitations;

WHEREAS, the Town Board determines as follows:

- a. The Property is zoned AG with a density of 2 dwelling unit(s) per 40 acres;
- b. The Lot is being split from two 40 acre parcels;
- c. The density allocation after the split will be as follows:
 - 1) Combined number of density units on the Lot: 2 density unit(s); and
 - 2) Combined number of density units on the Property retained by Rygh: 2 density unit(s);
- d. The proposed lot split is consistent with the Denmark Township Development Code;
- e. The Lot is being made part of a larger tract of land that has access on a public road and additional access will be provided by a private driveway to be established to the Lot;
- f. No new streets or roads are proposed to be created;
- g. The lot split is to facilitate the expansion of existing state-administered lands and will not adversely affect the remainder of the Property, the adjoining property, and will not conflict with the Town's plan, map, or official controls;
- h. The purpose of the lot split is to facilitate the transfer of property, including the Lot, to be placed into public trust with no residential structures to built on any of the property being transferred to The Trust for Public Land, it is not necessary to require the payment of a park dedication fee or to require the submission of soil testing information;
- i. The Applicant has submitted the required escrow and shall be responsible for paying all of the Town's costs, including professional fees, it has incurred related to this proceeding including the drafting and execution of the required development agreement;

DENMARK TOWN BOARD MEETING MINUTES
July 6, 2009

NOW, THEREFORE, BE IT RESOLVED, based on the findings contained herein, the Town Board hereby approves the above described lot split conditioned on compliance with all of the following:

1. Applicant shall enter into a development agreement drafted by the Town within 90 days of the date of this Resolution;
2. If the Lot is not transferred to the The Trust for Public Land within 180 days from the date of this Resolution, the lot split shall become void;
3. The Applicant may request an extension from the Town Board of the above timelines if necessary. The Town Board shall determine whether to grant an extension and the length of any such extension;
4. The Lot shall have a combined total of 2 density units which shall be extinguished upon being placed in public trust. The remaining portions of the Property from which the Lot is being split shall have a combined total of 2 density units;
5. The Applicant shall be responsible for fully reimbursing the Town for its costs related to the lot split, including professional fees incurred related to determining the application of the Development Code, drafting this Resolution, drafting the development agreement, and all other related costs;
6. The Applicant shall comply with the requirements of the Development Code and the terms, conditions, and requirements contained within the development agreement;
7. The Applicant shall be responsible for preparing such legal descriptions, deeds, and easements as may be necessary to accomplish the split and transfer the Lot. The Applicant shall also be responsible for complying with the requirements of the County Recorder's office to record the split and transfer; and
8. Prior to entering into the required development agreement, the Applicant shall demonstrate to the Town that the taxes on the Property have been paid in full.

BE IT FINALLY RESOLVED, the Town Board Chairperson and the Town Clerk-Treasurer are hereby authorized to enter into the development agreement for this lot split on behalf of the Town once it is in a form acceptable to the Town Attorney.

Adopted this 6th day of July, 2009.

BY THE TOWN BOARD

EXHIBIT A
Map of Lot Split

(Map is attached hereto)

DENMARK TOWN BOARD MEETING MINUTES
July 6, 2009

EXHIBIT B
Legal Description of Lot

The following real property located in the County of Washington, State of Minnesota, legally described as follows:

The West 878.77 feet of the South 704.80 feet of the Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of Section 20, Township 27 North, Range 20 West, Washington County, Minnesota;

The West 878.75 feet of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of Section 20, Township 27 North, Range 20 West, Washington County, Minnesota; and

Together with a 66 foot wide perpetual non exclusive easement for ingress and egress over and across that part of the SE 1/4 of the NE /14 of Section of Section 20, Township 27 North, Range 20 West, Washington County, Minnesota, the centerline of said easement is described as follows:

Beginning at the Southeast Corner of the Northeast Quarter of Section 20, Township 27 North, Range 20 West, thence North 01 degrees 48 minutes 39 seconds East assumed bearing along the East line of said Section 20 a distance of 672.00 feet to the point of beginning; thence North 89 degrees 36 minutes 11 seconds West a distance of 456.26 feet and there terminating.

The sidelines of said easement are to be prolonged or shortened to end on the East line of the West 878.77 feet of the South 704.80 feet of the Southeast Quarter of the Northeast Quarter of said Section 20;

Buyer and Seller understand and agree that the deed to Buyer will provide that the fee owners of the benefited and burdened property may mutually agree to relocate the access easement and any such revisions to the access easement will be memorialized and recorded.