

Denmark Township Board Minutes: March 07, 2005

Supervisors Present: Kathy Higgins, Jim Keller, John Kummer and Peg Powers

Supervisor Absent: Jim Fitzpatrick

Others Present: Acting Clerk Pamela Monno, Attorney Kevin Shoeberg, Engineer Cara Geheren

Call to Order: Chair Powers called the meeting to order at 7:05 p.m.

Agenda Approval:

Higgins added phone line, ISP Provider, Cardwell building permit, and Eagle's Watch update. Motion by Mr. Keller/Ms. Higgins 2nd. All approved. Motion carried.

Consent Agenda Approval:

Mr. Kummer pulled minutes. Motion by Mr. Keller to approve consent agenda as presented. Mr. Kummer 2nd. Motion carried. Minutes of 02/22/05 administrative meeting corrected to read that only Higgins to attend 02/28/05 Road Meeting. Motion by Mr. Kummer, second Mr. Keller to approve 02/22/05 minutes as amended. Motion carried.

Hearing Decisions:

Phillip Minervino – Variance: Phillip Minervino presented and explained schematic drawings of the proposed requested variance. Included were a small and large scale of the existing buildings in relation to the bluff line. His proposal includes retaining the existing house and garage in the same location, connecting them, and adding an additional garage. A landing area will be added, along with the planting of additional trees. An access has been designed for guests. He has received permission from Washington County to put in a septic system. Ms. Powers had concerns about the height of the roof and removing the flagstone on the west side of the property. Ms. Higgins said the Planning Commission eliminated that issue because they felt it wasn't a problem. She said removal of the flagstone is also addressed by the erosion management plans. There was also discussion regarding the extension of the driveway. Mr. Minervino explained the architect is designing the driveway to look attractive. Mr. Keller moved to accept the recommendation of the Planning Commission, Items 2 – 7, which are included in the February 22, 2005 minutes regarding approval of the variance, including allowing roof height of addition to remain as submitted on original plans. Ms. Higgins 2nd. Motion carried.

Kummer's Cliff – Major Subdivision:

NOTE: To prevent a conflict of interest, Township Board Supervisor John Kummer stepped down from the discussion of the proposed subdivision.

Roger Sigler presented and explained a schematic drawing of the proposed development of 45 acres. He explained clustering would sacrifice approximately 800 ft. of land and that would prevent adequate utilization of the land. All lots are 3 acres in size and conform to the requested setbacks. He said the road has a 9 ton specification. He has met with the WMO regarding the ponding area. Lot #2 has an access problem due to the pond, but will share a common driveway. Mr. Sigler said septic tank perks have been done to all lots. There will be no homeowners' association. There was discussion about moving the road back from the bluff line. This has been reviewed by MNDOT, DPC and Washington County. It was also discussed at the Planning Commission meeting to move the road but had not been drawn up at that time. Mr. Shoeberg and Ms. Geheren have seen the plan. Ms. Geheren has not received any

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feedback from the WMO. She said easements on all wet lands are necessary. There was discussion about what a buildable area is, park dedication for two lots, plat approval, when to pave the road, revising drainage and utility easements including the wetland, and plant habitat located on the south end of the development. Mr. Seigler said for protection of the plants on lot #1, the owner would be given an agreement indicating they would have to care for the plants.

Ms. Higgins moved to approve the subdivision as recommended by the Planning Commission with the addition of 1 addition, that will be subdividing 2 lots instead of 1, there will be no requirement of paving the road until such time as balance of property is platted/developed, the wetlands have been reviewed by Mr. Shoeberg, and revisions requested by Ms. Geheren show the drainage and utility easements, Item 1 park dedication, cash paid, 2 same, the 3 same, 4 remains, 5 remains, 6 changed to lots 1 and 2, 7 subject to planner's review, 8 plat being revised to show easements and storm water features, and to incorporate C as # 8. Mr. Keller 2nd. Motion carried.

St. Croix Ridge – Exclusive Properties Major Subdivision:

Jeffrey Riegel presented and explained schematic drawings of the St. Croix Ridge development. There will be no homeowners' association. Lot 2 would be the only lot that would have river access. Mr. Riegel submitted a letter written by his attorney that explains an exchange of land. Because there is question with land that is owned by the Nichols' family, the property will need to be surveyed. Ms. Powers asked for clarification on an easement located on the property to the south of the development. Mr. Kummer asked about accessing. Mr. Riegel explained where the easement would be on Parcel C and across to the actual owned parcel. There will be a perpetual easement across Parcel C. There will be a place for water runoff so there is no problem with adjacent land.

Ms. Geheren asked if it would be a gravel or grass access to Mat Miller's property. Mr. Riegel responded if a surface problem occurs, gravel would be installed. A grassy surface would denote infrequent travel. If a building were constructed, gravel would be installed as there would be frequent travel. It was suggested to insert this information into the plan.

Ms. Higgins reported she has read all of the recommendations presented by the Planning Commission. She said there are many issues still pending, such as questions with the lots and conservation area. She said as long as the conservation easement is along the east side of the lots, she has no problem with leaving the existing entrance as is.

Mr. Kummer referred to Item 3 in the plan. He would like to see the road lowered but will need to have soil borings done. The cost of lowering that road would be cost prohibitive.

Ms. Geheren expressed concern about the site distance across from Paris Ave. There is a hill that makes it difficult to see the intersection. It was looked at to lower the hill to improve site distance. But site borings were done which found bedrock 2 1/2ft. below the surface, which would create problems while trying to change the road. Also looked at alternatives for bypass lanes. A left hand turn from St. Croix Trail would present limited site distance. A warning sign could be posted at the top of the hill to warn motorists of the potential for traffic problems.

There was discussion about several issues that need to be addressed, such as: speed control, sign verbiage, title commitments, purchase agreements, covenants, private easement of culvert, Parcel C, sale of property lot and an easement to Matt Miller's across southerly 50 ft. of Lot 6, access to Schroeder's property, other parcels deeded to homeowners' association, cul-de-sac issues, and drainage and erosion. According to Ms. Geheren it would be difficult to get a controlled road speed. She said costs of sign verbiage would be minimal. In addition, Ms. Geheren said the overall engineering picture has been addressed. However, details still need to be addressed. She is comfortable that the details can be worked out once the drawings have been completed.

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Henry Buffalo, 11370 Panama Avenue So. spoke about concerns regarding safety and erosion that may impact his property located south of the development. He said that water run off has created a canyon affect. He is concerned about safety of children who ride their bikes in the canyon. He is also concerned about additional traffic and speeding. He is requesting the Board to not consider opening the road.

Mr. Kummer said he understands the homeowner's concerns. Mr. Keller would like to retain the right-of-way in the event it needs to be opened in the future. Mr. Shoeberg said the right-of-way would be dedicated. Also, if the road needs improvement, the neighbors will be assessed. Ms. Higgins made a motion to approve the temporary cul-de-sac with the dedicated road right-of-way and to not require the road be connected to St. Croix Harbor at this time. Ms. Powers 2nd. A vote was taken: 1 Opposed: Kummer; 3 Unopposed: Higgins, Keller, Powers

Mr. Dennis Sachs, representing the Schroeder family, presented a schematic diagram and explained how the water drains in that area. He has concerns about two issues: 1) access to parking, and 2) the existing culvert. He said the existing culvert on the railroad bed allows water to drain from that ditch from Nichol's beach. Nichols has plugged that culvert because water builds up on the west side. Mr. Sachs stated he has his septic system on that side and is concerned this will jeopardize it. He would like to see the water discharged on the east side of the road. It is unknown where that culvert is plugged. When the culvert was opened up, a short section was needed to drain to the east and not on the road itself. He requests to have the easement included on the master plan so the discharge of water would be understood.

Ms. Geheren stated it is a small culvert and does not discharge large amounts of water. Mr. Keller asked about installing a new culvert. If the culvert showed damage a new one would be installed according to Ms. Geheren.

Mr. Kummer moved to table the decision until which time the items previously addressed are properly documented to the Board's satisfaction. Ms. Higgins 2nd. Motion carried. (**NOTE:** Ms. Higgins requests all necessary documents before the Town Board meeting scheduled on April 4, 2005.)

Public Comment:

Jim Eilers, Mendel Ave. spoke about non-compliance of a CUP issued to the trailer business located on Hwy. 61 and 120th St. Mr. Eilers requests the advertising signs be turned off after hours, the exterior lights point downward, dead grass and trees be replaced, and berms are constructed. He reported his neighbor has also complained about these issues. He also has a complaint about the boat storage business on Manning Ave. The owner has parked vehicles and dumped an ice shack in the parking lot. Mr. Eilers would like a resolution as he has been dealing with this for approximately two years. Ms. Higgins stated Mr. Eilers contacted her asking that she contact the owner of the boat storage facility. She did not agree to contact the owner, believing that CUP enforcement is Keller's responsibility. Mr. Keller and Mr. Shoeberg will obtain a copy of the CUP and will meet with the owners to discuss these concerns. They will follow-up with these issues by the end of March, 2005. A discussion by the Board will take place if legal action is necessary. In addition, Mr. Shoeberg and Mr. Keller have inspected the site and talked to the owner about replacing trees. The owner said trees would be planted this spring.

Business Items:**Sheriff's Report:**

Deputy sheriff submitted calls for service before the meeting and these will be provided to the Township Clerk.

2005 Road Improvements:

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Mr. Kummer reported on three potential road projects for Denmark Township. Ms. Geheren distributed a memo prepared by TKDA, dated March 7, 2005 regarding 2004 Street Improvements, Commission No. 13202.000 to Board members and explained the three options available. The options described are: Project A, Project B, and Project C. The board discussed the options and touring the roads in March or April to review the areas.

Continuing Education Advisory Committee Representation:

Ms. Powers reported she is the representative for Denmark Township on this committee. She volunteered to continue serving on the committee. Her term has expired as Town Board Supervisor but she would like to continue serving as a representative. The Board members discussed the request. Discussion that when her next 3 year CEAC term is up, it will be referred back to the Board for action/recommendation. There will be no compensation to serve on the committee. Mr. Kummer moved to let Peg Powers continue her participation on the committee. Ms. Higgins 2nd. Motion carried.

PITS 2005:

Ms. Powers reported on the PITS program. It is a two-day a week program. She would like to see it continue as it benefits the children in the area and Hastings also participates. It costs \$1,350. Mr. Kummer moved to have Denmark Township participate in the 2005 PITS program at the rate of \$1,350 for the 2 day a week program. Mr. Keller 2nd. Motion carried.

Planning Commission Appointments: The terms for Seat 2 and Seat 3 on the Planning Commission had expired. No one applied for either of those seats. Charles Grote and John Moes were re-appointed to serve from March 2005 through March 2008. Ms. Higgins moved that Charles Grote and John Moes be appointed to their respective seats for the time period of March 2005 through March 2008. Mr. Keller 2nd. Motion carried.

Anderson Complaint on business in residential area:

(Business located on 122nd St. between Norrell & St.Croix Trail) This is a non-committed use, generating traffic, operating in a residential area. Neighbors complained about this business approximately three years ago. They do not want to see the owner out of business but would like the operation to cease in 60 days. Mr. Meyer knew he was operating in violation but continued until there was a complaint. Mr. Keller and Mr. Kummer met with the owner. He stated he needs at least three years to change the location of his business in order to benefit him financially. Ms. Higgins moved to have Mr. Shoeberg draft a temporary operating permit for Mr. Meyer including the date he has to be out which will be determined at the April 4, 2005 Board meeting. Mr. Kummer 2nd. Motion carried.

Afton Proposed Blacktopping of 60th Street:

Mr. Kummer reported the City of Afton would like Denmark Township to carry the cost of paving 60th Street. He stated that 60th Street is under utilized by the community and would be expensive to blacktop. Ms. Higgins reported she attended the meeting and was informed it would cost the Township \$310,000 due to top soil issues. Ms. Geheren discussed this with an engineer and reported on two cost options that would be available to the Township: 1) \$310,000 includes construction and soft costs, and 2) \$200,000 which is less expensive. Mr. Keller moved that the City of Afton be sent a courteous 'thanks' and 'no thanks' letter. Mr. Kummer 2nd. Motion carried.

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Mr. Shoeberg reported he sent a red line copy to everyone. He said the changes are all the government entities involved. In addition, Mr. BOWSR will not let the Township get an agreement approved until all entities are approved. He referred to page 9 of the WMO agreement to review those powers and to read Section 5, Subd. 2, Subd. 4. Ms. Higgins questioned Subd. 3. She asked what budgetary control Denmark Township would have or will the WMO have total budgeting authority. Mr. Shoeberg stated that budget recommendations would be reviewed by the effected members on an annual basis. He said that Cottage Grove, Afton and Denmark Township are the three parties primarily responsible. Ms. Higgins asked what the status is of the current plan. Mr. Shoeberg said he will make a presentation to Mr. BOWSR. The last part is getting a joint agreement to get it approved. Ms. Higgins asked Mr. Shoeberg for a copy of the final submitted WMO Plan and budget for the Township. Ms. Higgins expressed concern for the residents of the Township as they develop properties and for the Township itself. Mr. Shoeberg responded the Township is 67% of the WMO as it pertains to a geographic area. The Township is operating as a WMO rather than water shed district. Ms. Higgins would like to have Ms. Geheren, the Township's engineer and representative of the WMO, review the plan and get comparisons of the differences for the Township. Are recommendations from the WMO different than what Denmark Ordinances require? Is so, what are the differences and cost implications for the residents/Township. Ms. Higgins asked if the \$67,000 allocated is an actual budget figure for 2005. The Budget was to be based on taxable market value. Submitted budget figures based on projection, not actual figures. Mr. Shoeberg will get the actual figures. Mr. Keller moved to approve the amended joint powers agreement between the communities participating in LSCWMO. Ms. Powers 2nd. Motion carried.

Valley Paving:

Mr. Shoeberg received a letter from Valley Paving still claiming \$9000.02 for final settlement of claim. Ms. Geheren said they had been paid in full according to correspondence sent by the Town Clerk. Mr. Shoeberg said they have already received additional payment and recommends no additional funding. Ms. Higgins moved to write a letter to Valley Paving declining their offer and to take the sum of \$2,842.00. Mr. Kummer 2nd. Motion carried.

Second Line ISP:

There was discussion about getting a second phone line for the Town Hall office. All Board members agreed it is a good idea. An ISP provider will be needed. Mr. Keller agreed to pursue that.

Legal Reports:**Klopf Update**

Mr. Shoeberg reported the court administrator is taking a \$45 fee and returning the rest to the Township. The \$45 will cover their administrative costs.

Suburban Update:

Mr. Shoeberg reported he has received \$1,000 from them. They have been warned to remove any additional cars. The owner was informed to have only 16 vehicles by the end of the week.

Rumpca Update:

Mr. Shoeberg recommended using Mr. Kelly, City Attorney for the City of Maplewood as the arbitrator for the Rumpca Gravel Pit case. He has municipal and judicial experience. Mr. Shoeberg commented that Mr. Clinton would not obtain an engineer. Ms. Higgins asked what the time frame is. Mr. Shoeberg

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responded we should have an answer by the April 4, 2005 Board meeting. Ms. Higgins also asked what procedures the Board members should follow. Mr. Shoeberg said because depositions were taken from Board members, he would request that Mr. Kelly inform him. Exhibits will be included. He will let the Board know as soon as possible. Mr. Kummer moved to appoint Mr. Kelley as the arbitrator of choice. Ms. Higgins 2nd. Motion carried.

Featherstone Driveway Permit:

There was discussion about issues regarding this permit, such as the location, encroachment, and the road right-of-way. Ms. Geheren said specific complaints still need to be addressed. Mr. Shoeberg said these issues are in the development agreement. He said a WMO inspector went out there twice and reported trees had been removed. The Board of Directions sent a letter, but it should come from the Township Attorney. Mr. Shoeberg will draft a letter, addressing the issues, responding to the official complaint. Ms. Higgins requested a copy of the letter.

Cardwell Building Permit:

Ms. Higgins asked whether Cardwell building permit had been appraoved. Mr. Shoeberg said the permit would be issued.

Eagles Watch:

There was discussion about the complaints of the shortage of water in Eagles Watch development. Ms. Powers said the engineer submitted a plan for the water supply and found that people are using too much water due to the new landscaping . Mr. Keller said he would not feel comfortable giving building permits until this complaint is resolved. He asked what legal obligation the Township has with this development. Mr. Shoeberg said we do not have any legal obligations. It is buyer beware. We only review certain things and not covenants. We met our obligation on the health issue. The neighbors have to decide how to use their water. Ms. Geheren said according to the Department of Health and the Department of Natural Resources it is an adequate system.

Meeting Notices:

03/08/05 – Township Elections – Polls open 7:00 a.m. – 8:00 p.m.

03/08/05 – Annual Meeting – 8:05 p.m. Town Hall

03/21/05 – Planning Commission Meeting Cancelled

04/04/05 – Township Board Meeting – 7:00 p.m. – Town Hall

Adjournment:

Motion made by Mr. Keller. Mr. Kummer 2nd to adjourn at 10:55 pm. Motion carried.

Minutes submitted by: Pamela Monno, Interim Denmark Township Clerk