

DENMARK TOWN BOARD MEETING MINUTES
May 6, 2019

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

ABSENT: John Strohfus

STAFF PRESENT: Attorney Gilchrist (Kennedy-Graven), Engineer Stempski (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 drafted. Voting Yes- R Simon, S Racine, B Rucker, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

CONSENT AGENDA APPROVAL: Claims Pulled

Motion B Rucker/2nd R Simon approval of Consent Agenda items which include 04/01/2019 Board Minutes, EFT payments- PERA 508496, MN Tax 0188618688, Federal Tax 72328465, payroll ending 05/01/2019, Financial Reports. Voting Yes- B Rucker, R Simon, S Racine, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

HEARING DECISIONS/ZONING ACTIONS: None

PUBLIC COMMENT:

Jim Eilers- Submitted a list of concerns regarding MN Coaches. Building Inspector and Town Planner have reviewed the property/conditional use permit. Exterior lighting, generator use, bus headlights and landscape plan. Eilers cited the Town Ordinance, maintaining that any business property must be screened from residential areas. Planner visited the site and observed that site was missing a number of plantings shown on the approved landscape plan. These plantings consist of seven clumps of River Birch at the very north-east corner of the site. Follow-up with the property owner with regard to planting of these trees will be necessary. The White Cedar and Red Maple plantings north and east of the stormwater management pond were planted in what appeared to be the appropriate location per the landscaping plan. Also noticed that the significant stand of deciduous vegetation along the eastern property boundary remains on the subject site. Eilers noted that screening is year round and Birch trees do not screen year round. Regarding the lighting, parking lot lights are still shining out. Town will follow up with business property owner.

Ray Thurmes- 104th St S.- resident owns a 13.86 parcel zoned Ag-2 (1/20 density) and provided a tract survey completed in 1975 that shows 2 parcels on subject property. Owner would like to split 4-5 acres from parcel. Property has never been registered with any further subdivision. Attorney noted that, since the survey/property had never been recorded as being subdivided, Mr. Thurmes would need to apply for a rezoning of the parcel to Rural Residential. The property would then need to go through the subdivision process.

Jerry Leyde- Mendel resident is requesting that the 45 MPH speed limit sign on 120th St S near HWY 61 be moved further to the east of Margo Ave S. Resident also provided pictures of other 45 MPH speed limit signs in the Town. Board noted that these signs were not installed by the Town. Unknown who posted the signs. Attorney noted that MnDOT has largely control of local speed limits. There is limited authority for local governments to adopt speed limits. Town can go through a process/speed study to request a 45 MPH speed limit. If MnDOT authorizes a speed limit change, the Town can then post that speed. Attorney recommended that the Town contact MnDOT to find the certified/authorized records for the Town roads. Also noted that if anyone does post an unauthorized speed limit sign, it would technically be a crime. If the Town found that unauthorized speed limit signs are posted, the signs should be removed. Engineer Stempski to contact Adam Josephson for information on road speed limits certified for Denmark. Attorney provided information based on the MN Statutes, which addressed speed study, urban and rural residential districts, and residential roadway speed limit criteria.

Resident inquired re: status of the non-compliant business operations on 120th St S- Attorney noted that in reviewing the ordinances which were in effect at the time the property became non-conforming, the business use, which had the appearance of being grandfathered in, was never allowed by the ordinance. Legal is corresponding with the business owner's Attorney. Discussion regarding enforcement of zoning ordinance. Attorney recommends criminal prosecution. Attorney will refer criminal prosecutor if Town Board chooses to authorize. Board consensus to authorize Town Attorney to engage/ work with a prosecuting attorney to see if prosecutor finds that criminal prosecution is feasible.

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Motion R Simon/2nd B Rucker to authorize Town Attorney to engage prosecuting attorney to pursue the enforcement of the zoning ordinance for operating a commercial business on a property which is not authorized on the property located at 12255 120th St S. to see if criminal prosecution is viable. Voting Yes- R Simon, B Rucker, S Racine, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

BUSINESS ITEMS:

2019 Street Improvements: Received the following bids for full depth reclaim/overlay on Oakgreen Ave S (70th-60th).

MN Paving & Materials (Harddrives) \$238,306.00- Park Construction \$253,691.50- Northwest \$257,059.30- Midwest Asphalt \$257,289.00. Engineer's Estimate \$272,849.50. Engineer has reviewed bidder's documents. Engineer recommends awarding contract to lowest responsible bidder, MN Paving & Materials.

Motion S Racine/2nd B Rucker to award contract for Oakgreen Ave S (70th-60th) to lowest responsible bidder MN Paving & Materials in the amount of \$238,306.00. Voting Yes- S Racine, B Rucker, R Simon, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

Road Tour:

Sealcoat- No 2019 sealcoat project. Goal is to limit sealcoating to new pavements only.

Crack Seal- Streets planned for 2020 crack seal:

- Maycrest Ave Court S (crack seal and sealcoat estimated at \$8200.00).
- 87th St S and Penrose Ave S- Pull off the sealcoat program and place in CIP for future reclaims. Will need to determine what year to reclaim and if crack sealing is necessary in 2020.
- Neal Ave S (between 80th-90th) and 80th S (Neal-Oakgreen) determine whether to pull forward for crack seal/sealcoat.

No Striping Needs in 2020.

Board consensus to schedule a Roads Workshop to discuss additional/future street improvements. (June Agenda)

Tri-County provided estimates for Board consideration.

Estimate #23 and #24. Re: area of solar project. Questions arose re: 2 different sets of pricing (\$5560.00 & \$10,850.00) for Norell (culvert installation and ditch dig out). In March 2016 a Driveway Access permit for Aurora/Hastings Solar 13005 Norell Rd S. was issued, which required that a minimum 20" long, 15" diameter culvert be put in the driveway access. Culvert was not installed. K Higgins will contact Aurora-Enel Solar requesting that they install the required culvert on their access drive.

Estimate #23- Norell culvert replacement across the road, limerock, dig out ditch that was filled in years ago for culvert entrance (T. \$7373.00).

Estimate # 22- Two Oakgreen culverts (T. \$13476.00). Engineer noted that this would need to be considered and done if approved, prior to the reclaim/overlay of Oakgreen Ave S. Engineer viewed 1- flooding occurred at a low spot on the side of Oakgreen, once the water receded, it was apparent that the culvert was broken and needed to be replaced. Unsure of the request for the 2nd culvert. B Rucker asked Engineer if the Oakgreen reclaim/overlay contractor does culvert work. Engineer affirmed they do but we would not be able to get an estimate/amendment to reclaim/bid contract. They would need to be asked, once they were under contract, and a change order would need to be issued. B Rucker requested that a second quote for culvert installation be obtained. Engineer noted that although there is a window of time to get the reclaim/overlay done, it appears they would want to start early.

Motion S Racine/2nd B Rucker to approve Oakgreen Ave S (70th-60th) culvert work, with authorization for Roads Supervisor J Strohfus to work with Engineer to obtain additional information and an additional quote from Paving contractor (MN Paving & Materials or subcontractor) to obtain the best price. Voting Yes- S Racine, B Rucker, R Simon, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

Estimate #8- sweeping commercial district. **Motion B Rucker/R Simon to approve Estimate #8 street sweeping of business district in the amount of \$650.00. Voting Yes- B Rucker, R Simon, S Racine, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.**

Estimate #25- dig out ditch on 87th St S, reseed and shoulder side of road. Right of Way (ditch) is level with the road, water washes onto the road. Dig out Norell going down hill to prevent future problems. S Racine- on west side, over the years, the gravel has continued to migrate into the ditch area, which is now level with the road, which has caused the water to flow over the road and wash out the road. Rucker noted a couple of

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years ago, a lot of material was hauled out of the area and Norell was reshaped. The winter rain/flooding has done additional damage to the road. **Motion B Rucker/2nd S Racine to approve estimate #25 work on Norell Ave S in the amount of \$1800.00. Also, authorization for landowner on 87th S, to work in the right of way on his property to shape the ditch to correct the ditch draining issues.** Voting Yes- B Rucker, S Racine, R Simon, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

Town Speed Limits:

Board consensus to authorize the Attorney to draft a resolution to request a speed limit study for 120th St S and 110th St S.

127th St Parking Issue: Sheriff Deputy is requesting that the Board consider posting no parking or no parking of vehicles for sale signs at the 127th St dead end next to County Point. The Deputy indicated that the vehicles parked for sale there, were being both vandalized and stolen. Attorney noted that there is a process that the Town would need to go through, in order to set a no parking/towing/citation ordinance. Board consensus to not address issue at this time.

Escrow Releases:

Afton Apple Grading Permit Escrow 042- permit was never issued. Escrow Balance \$2000.00.

Becky Tukua Minor Subdivision 071- no charges pending. Escrow Balance \$27.15.

Motion R Simon/2nd S Racine to release escrow balances for Afton Apple 042 claim #11340 2,000.00 and Becky Tukua Minor Subdivision 071 claim #11341 in the amount of \$27.15. Voting Yes- R Simon, S Racine, B Rucker, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

Oberloh & Oberloh 2018 Financial Audit: 2018 Financial Audit performed by Oberloh & Oberloh, LTD. Audit was submitted to the State Auditor's Office. Audit lines up with Town Budget/revenues/expenditures.

Motion B Rucker/2nd S Racine to accept the 2018 Financial Audit performed by Oberloh & Oberloh. Voting Yes- B Rucker, S Racine, R Simon, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

Pulled Claims: Received additional billing (\$138.00) from Forum Communications. Revise Claim #11325 (\$220.80) to include additional billing- T. amount \$358.80.

Add Claim #11342 Focus Engineering in the amount of \$861.25. **Motion B Rucker/R Simon to approve Claim #11325 Forum Communications in the amount of \$358.80 and Claim #11342 Focus Engineering in the amount of \$861.25.** Voting Yes- B Rucker, R Simon, S Racine, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

Motion R Simon/2nd K Higgins to approve Claims #11322-11339. Voting Yes- R Simon, K Higgins, B Rucker, S Racine. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

Hastings Fire Department Annual Report is available for review in the Town Hall Office.

Legal Updates:

Attorney has updated the zoning ordinance. Board will receive the draft complaint/enforcement procedure for review.

Discussion re: paving Town Hall parking lot, and the use of Park/rec funds. Attorney noted that Park/rec funds can be used for the acquisition or development, or improvement of parks, recreational facilities, playgrounds, trails, wetlands or open space based on approved park system plan. Must not be used for ongoing operations or maintenance of parks, recreational facilities, playgrounds, trails, wetlands or open space.

9:34 PM **Motion R Simon/2nd S Racine to adjourn May 2019 Board Meeting.** Voting Yes- R Simon, S Racine, B Rucker, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

Becky Herman

Denmark Township Clerk/Treasurer

Denmark Township Chair