

DENMARK TOWN BOARD MEETING MINUTES
November 3, 2014

SUPERVISORS PRESENT: Kathy Higgins, John Kummer, Joe Moore, Jim Keller

ABSENT: Karen Herman

STAFF PRESENT: Attorney Melissa Manderschied (Kennedy-Graven), Ryan Stempski (Focus Engineering)

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

AGENDA APPROVAL:

Motion J Moore/2nd J Kummer approval of agenda as submitted. All In Favor. Motion Carried 4-0-0.

CONSENT AGENDA APPROVAL: Motion J Moore/2nd J Keller approval of consent agenda items which include 10/06/14 Board Meeting Minutes, Claims #10390-10401, EFT payments- PERA 307486, MN Tax Deposit 0304078464, Federal Tax 45662438, payroll ending 11/01/2014 and financial reports. All In Favor. Motion Carried 4-0-0.

HEARING DECISIONS/ZONING ACTIONS: None

PUBLIC COMMENT: Neal Avenue residents thanked the Board on behalf of the residents that the newly paved mile (80-90th) has affected. Residents noted that the contractor (Hardrives) did a good job and were courteous to those whose homes were within the work area. Also noted that the passing traffic is going no faster than when the road was gravel.

BUSINESS ITEMS:

Hwy 61/Maycrest Ave 2016 Project-MnDOT:

Ryan Coddington and Adam Josephson from MnDOT presented information to the Board regarding Hwy 61/Hwy 10/Maycrest improvements planned for 2016. Because of safety concerns, MnDOT intends on closing the existing median crossing at Maycrest and realigning Maycrest to run behind the Tree House to the Hwy 61/Hwy 10 signal light. MnDOT closed access south of this intersection to Hub's Landing and King's Cove when the Hastings Bridge was constructed, resulting in the need to create U-Turn lanes at intersection of Highways 10 and 61 for accesses to those businesses. When MnDOT has a construction project that involves connecting a local road to a signal they have a cost participation policy regarding local costs. Preliminary estimate for signal modifications is \$210,000. Per MnDOT's policy, Denmark's share would be 25% (estimate \$30-50,000). Maycrest realignment would be 100 % state's cost. Denmark would own and maintain Maycrest Ave and the pond. Denmark would also be responsible for minor maintenance of the signal (power, LED lights (indications & street lights), cleaning and painting if needed. The State would be responsible for major maintenance (all other signal maintenance and operation of the signal). Denmark would also be responsible for the power cost estimated at \$40-50/mo., LED light maintenance, service calls (which could be done by the state on a reimbursable basis).

MnDOT is requesting that Denmark state preference on Right of Way width along Maycrest and whether the Town would prefer fee or easement of the Right of Way. Discussion regarding consistent right of ways in the Township. Township requires 66 ft ROW for new roads in developments. Kummer questioned adequacy of turn radius for truck access to the Tree House.

Board questioned authority to pass cost to the Town and believes the realignment of Maycrest would be a direct result of the 2013-14 Hwy 61/Hastings Bridge Project. Attorney-believes this is a completely MnDOT initiated project and wonders why the Town would be charged for something it didn't asked for. Not aware of other projects where township government has been assessed for this type of cost/ongoing maintenance. MnDOT noted that both the State and the County use this practice. Cost participation agreement for the signal cost/including maintenance cost and the turn back of the realigned Maycrest being turned over to the Town, and the Town would be responsible to pay XCEL directly for the power cost. MnDOT would operate the signal therefore being responsible to take care of a non functioning signal. Town would be responsible to change out bulbs. Moore expressed concerns regarding the Town's liability if the light malfunctions. State will check into that issue. Attorney noted that the liability issue would be addressed in any maintenance agreement. Attorney asked for information regarding any other Towns that the State has been involved with for this type of project. State will provide information. If the Town would not support the realignment of Maycrest, the State is still looking at closing the median which would cause an inconvenience to those wanting to access Maycrest from the north.

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Question arose on whether there was a possibility of a one time buy out of maintenance with the State? Concern expressed by the Town that it doesn't have maintenance staff available to address this requirement. Would prefer that Town be billed for a portion of the maintenance but the State be responsible for the maintenance.
State will look into the issues/concerns brought forward by the Board.

Cooper/Boron Administrative Lot Split (127/Morgan): Patricia Cooper (owner) and Katherine Boron (buyer) is requesting an administrative lot split on a 40 acre parcel at 127th/Morgan. The proposed split would result in approximately two 20 acre parcels. The northern parcel is zoned agriculture except that the south 800 ft are zoned commercial/industrial. There is one density unit on the northern parcel. The remaining southern parcel is zoned commercial/industrial. Attorney submitted draft resolution for Board review. It would be the Board's intent to amend the comprehensive plan so that the northern parcel will be zoned entirely agriculture. The road access to the property would be subject to the Town's specifications and approval. Landowner and buyer would be required to enter into a Development Agreement with the Town.

Motion J Kummer/2nd J Moore to adopt Resolution 2014-06 Approving An Administrative Lot Split For The Cooper Property Located In Section 6. All In Favor. Motion Carried 4-0-0.

80th St Repair: Engineer spoke with paving contractor regarding the dip on the 80th (w of Neal) St repair. Contractor did not feel it was their responsibility because they hadn't done the base work under the repair section. They also noted that if they did bring out the equipment to repair the dip, there is nothing to prevent another dip from occurring. The way to address it would be to redo it when the next mile was done. Town Engineer did let the contractor know that the Town was not satisfied. Board consensus to allow the repair to go through the freeze/thaw cycle and address it in the spring as it would still be in the warranty period. The Town would still have leverage with the performance bond which carries for 1 year after final payment and if necessary the Town could pursue under warranty.

Homestead Estates St Croix Tr Ln S Road Acceptance: St Croix Trail Lane was constructed in October 2009 and the improvements were accepted. The Development Agreement requires that 51% (9 homes) be occupied before the Town takes over the road maintenance. The 9th home is being constructed and believed to be occupied within the month. Engineer and Roads Supervisor checked the road and recommend the Town take over the maintenance.

Motion J Kummer/2nd J Keller to adopt Resolution 2014-07 Accepting St Croix Trail Lane In The Plat Of Homestead Estates For Maintenance By The Town. All In Favor. Motion Carried 4-0-0.

Escrow Balance Refunds: There are no pending charges for the following escrows.

Motion J Moore/2nd J Kummer to release the following escrow balances:

Claim #10402 account 801-010 T-Mobile 9251 Manning Ave S (CoC) in the amount of \$108.00

Claim #10402 account 801-012 Red Frog Events 2014 in the amount of \$273.50

Claim #10403 account 801-013 Sprint 8421 St Croix Tr S (CoC) in the amount of \$65.75.

All In Favor. Motion Carried 4-0-0.

Board of Canvass: Board of Canvass is scheduled for Wednesday, November 12, 2014 @ 5:00 PM.

LEGAL UPDATES

DNR is meeting with work groups regarding the proposed mandatory open space areas in the MRCCA. Town Attorney will attend meeting.

8:33 PM **Motion J Moore/2nd J Keller to adjourn.** All In Favor. Motion Carried 4-0-0.

Becky Herman
Denmark Township Clerk/Treasurer
Addendums Resolutions 2014-06, 2014-07

Denmark Township Chair

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DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
Resolution No. 2014-06

RESOLUTION APPROVING AN ADMINISTRATIVE LOT
SPLIT FOR THE COOPER PROPERTY LOCATED IN SECTION 6

WHEREAS, Patricia Ann Cooper, on behalf of Katherine A. Boron Living Trust ("Applicant"), has applied for an administrative lot split for the property described as follows:

The Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of Section 6, Township 26 North, Range 20 West, Washington County, Minnesota ("the Property");

WHEREAS, the proposed lot split will divide the approximately 40 acre Property into two parcels each containing approximately 20 acres, which are labeled as Parcel A and Parcel B on the survey attached hereto as Exhibit A;

WHEREAS, Patricia Ann Cooper & Richard Edlich intend to sell the northern approximately 20 acres to Katherine A. Boron Living Trust ("Parcel A");

WHEREAS, the Town Board determines as follows:

- a. The proposed lot split of the Property is subject to the requirements of Denmark Township Development Code ("Development Code"), Chapter 3, Section 5;
- b. A larger approximately 40 acre Property is being split to create a Parcel A and a Parcel B;
- c. Parcel A will be approximately 20 acres. Parcel B will be approximately 20 acres;
- d. Parcel A is zoned A-2, Agricultural, except that the south 800 feet are zoned CI, Commercial Industrial;
- e. Parcel A is currently registered as Green Acres and receives preferential tax treatment.
- f. The maximum density in A-2 is one dwelling unit per 20 acres; therefore the maximum number of dwelling units on Parcel A is one;
- g. The Commercial Industrial district is intended for commercial and light industrial businesses that are non-threatening to the environment; therefore, no dwelling units are available for Parcel B;
- h. The proposed lot split is consistent with the Development Code;
- i. Parcel A and Parcel B have access to Morgan Avenue South;
- j. The Applicant will be required to apply for a driveway permit for Parcel A;
- k. No new streets or roads are proposed to be created by the lot split;
- l. The lot split will not adversely affect the remainder of the Property, adjoining properties, and will not conflict with the Town's plan, map, or official controls;
- m. The Applicant must meet all of the requirements of Subsection 5.1(2) of the Development Code by submitting the required fees, documentation, and other required materials;
- n. The Applicant has submitted legal descriptions for the Property, Parcel A, and Parcel B;
- o. The Applicant has submitted the required survey;
- p. The Applicant has submitted proof of the payment of real estate taxes for 2014;
- q. The Applicant has submitted a title commitment;
- r. The Applicant has submitted an aerial photograph;
- s. The Applicant has not submitted soil testing information. If an on-site sewage disposal system is installed, the development agreement will require soil testing;
- t. The Applicant has submitted some conveyance documentation, but a copy of the deed used to convey Parcel A must be submitted to the Town prior to the release of this Resolution to the Applicant;
- u. The Applicant will be required to enter into a development agreement with the Town as required by Chapter 3, Section 5 of the Development Code;
- v. The Applicant will be required to submit the required park dedication fee to the Town pursuant to the requirements of Chapter 3, Section 12 of the Development Code. The Town shall not release this Resolution or the required development agreement to the Applicant until receipt of the park dedication fee; and

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- w. The Applicant must submit to the Town 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.

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 60 days of the date of this Resolution;
2. If Parcel A is not transferred to Katherine A. Boron Living Trust 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. Parcel A shall have a total of 1 density unit. The remaining portions of the Property (Parcel B) shall not have any density units due to it being zoned Commercial Industrial;
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 other documentation as may be necessary to accomplish the split and convey Parcel A. The Applicant shall also be responsible for complying with the requirements of the County Recorder's office to record the split and convey Parcel A, including but not limited to correcting any errors in the survey or legal descriptions.

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 3rd day of November, 2014. **BY THE TOWN BOARD**

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DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
Resolution No. 2014-07

**RESOLUTION ACCEPTING ST CROIX TRAIL LANE SOUTH IN
THE PLAT OF HOMESTEAD ESTATES FOR MAINTENANCE BY THE TOWN**

WHEREAS, St Croix Trail Lane South (the "Road") was dedicated to the public within the plat of Homestead Estates ("Development"), which is located within Denmark Township, Washington County, Minnesota (the "Town");

WHEREAS, Sections 2 and 5 of the development agreement entered into between the Town and the developer for this Development ("Development Agreement") require the developer to build the Road according to the approved plans for the Development and the Town's standard specifications (collectively the "Standards") and provide for the maintenance and repair of any defects in the Road for two years before the Town will open and maintain the Road as part of its system of publicly maintained town roads;

WHEREAS, the Town's road supervisor has inspected the Road and certified to the Town Board that they were sufficiently built, maintained, and repaired to satisfy the required Standards to be accepted for Town maintenance;

WHEREAS, Minnesota Statutes, section 164.11 declares that land dedicated to public use as a road within a Town is deemed a legal cartway and under Minnesota Statutes, section 164.10 the Town Board is prohibited from expending Town road and bridge funds on a cartway unless it adopts a resolution finding that the public interest requires such an expenditure;

WHEREAS, Section 5 of the Development Agreement indicates the Town will not be responsible for maintaining the Road until it adopts a resolution to open and maintain them as town roads; and

WHEREAS, the Town Board hereby finds and determines the Road have been sufficiently constructed as required by the Development Agreement to be opened and hereafter maintained by the Town.

NOW, THEREFORE, BE IT RESOLVED, the Town Board, based upon the above findings and determinations, as follows:

1. St Croix Trail Lane South located within the plat of Homestead Estates is hereby added to the Town's system of publicly maintained town roads and the Town shall provide for the on-going maintenance of the Road in accordance with its applicable policies and procedures; and
2. Nothing in this Resolution waives or releases any remaining obligations or restrictions within the Development Agreement executed for this Development.

Adopted this 3rd day of November, 2014. **BY THE TOWN BOARD**