

DENMARK TOWN BOARD MEETING MINUTES
November 7, 2011

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

ABSENT: Gary Dixon

STAFF PRESENT: Attorney Troy Gilchrist- Kennedy Graven

CALL TO ORDER: Meeting called to order @ 7:03 PM by Chair Higgins

AGENDA APPROVAL: Higgins added 10/25-10/26/11 RFP Minutes to Consent Agenda. Moore added Sieben Trees.

Motion Moore/2nd Keller approval of agenda as amended. All In Favor. Motion Carried 4-0.

CONSENT AGENDA APPROVAL: Higgins pulled claims. **Motion Kramer/2nd Moore approval of consent agenda items which include 10/03/2011 Board Meeting Minutes, 10/25-10/26/2011 RFP Minutes, EFT payments- PERA 1191773, MN Revenue Tax 99113764844, Federal Tax 45808630, payroll ending 11/01/2011 and financial reports. All In Favor. Motion Carried 4-0.**

PULLED CLAIMS- Clerk added claim #9753 for City of Cottage Grove in the amount of \$360.00. Claim was submitted for code enforcement done by City of Cottage Grove Building Department on behalf of Denmark Township.

Motion Kramer/2nd Keller to approve adding payment of claim #9753 in the amount of \$360.00 to City of Cottage Grove. All In Favor. Motion Carried 4-0.

Motion Keller/2nd Higgins to approve payment of claims #9735-9753. All In Favor. Motion Carried 4-0.

HEARING DECISIONS/ZONING ACTIONS:

Modern Automotive Performance Conditional Use Permit 12271 Margo Avenue S. PID 06.026.20.23.0009

Owner Chris Carey in attendance.

Applicant is requesting a conditional use permit to locate an automotive business at 12271 Margo Ave S. Property is a 3.4 acre parcel with an existing 39,000 sq ft building, located in the Commercial/Industrial District.

Applicant's proposed use includes motor vehicle repair, light manufacturing and warehousing and distribution. Pioneer Press currently leases about a 7,000 sq ft portion of the building for newspaper distribution and applicant is requesting to continue this lease and use.

Business is currently operating in Plymouth, MN and has 31 employees.

Interior of building is not totally finished. Applicant intends on using the finished 3,000 sq ft office area for sales and administrative staff. The remaining unfinished portion of the building would accommodate motor vehicles, vehicle repair/engine performance work (basically engine internal) and light manufacturing of some parts. Business does not provide vehicle body work. There would be no outdoor storage. There will be no structural or exterior building changes. Applicant is aware that under previous ownership, portions of the building were noncompliant with the building code and was not issued a certificate of occupancy. Applicant will work with the Building Inspector to resolve.

Components of the business include sales of parts (mostly through internet and phone), office, shipping/receiving, auto service (4 lifts), fabrication/machining, indoor storage of vehicles and vehicle testing/dynamometer. Business does not sell automobiles.

Planning Commission recommended conditional approval of the request.

Attorney reviewed draft resolution with applicant and Board. Changes made by the Board include:

(Condition #7) Restricting use of the dynamometer between the hours of 9 AM and 6 PM. Applicant suggested that in the future, changes may be made to lessen the noise made by the dynamometer. Any adjustment of the dynamometer usage hours would require an amended CUP.

(Condition #9) Submission and implementation of a landscaping plan for the rear yard would not be required until neighboring residential development occurs.

Motion Moore/2nd Kramer to adopt Resolution 2011-14 Approving A Conditional Use Permit for The Property Located At 12271 Margo Avenue S.(Modern Automotive Performance), with noted revisions. All In Favor. Motion Carried 4-0.

PUBLIC COMMENT: None

SHERIFF'S REPORT: There has been an increase in the number of thefts in the Denmark Township area.

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BUSINESS ITEMS:

Eisenmenger-Howe Lot Line Adjustment: Lot Line adjustment was approved 07/05/11. The deeds for the newly adjusted parcels were required to be recorded with the County, no later than 120 days from the approval (11/02/11). Eisenmenger not able to obtain lien waivers yet. **Motion Moore/2nd Keller to extend deed recording deadline an additional 120 days.**

Discussion: Eisenmenger requested 180 days. Motion amended. **Motion Moore/2nd Keller to extend deed recording deadline an additional 180 days (04/30/12).** All In Favor. Motion Carried 4-0.

Tree Trimming: A resident had requested that the trees overhanging Oakgreen be trimmed. Tri-County had been previously directed to trim trees along Oakgreen. He submitted a quote of \$1500 for the trimming. Board consensus to look at the trees before deciding action.

Ditch Mowing: Tri-County was previously instructed to do a complete mowing of the ditches. Board consensus that certain locations should be mowed prior to winter. Moore will work with Tri-County regarding spot mowing.

Winter Road Maintenance: Tri-County would like to discuss winter road maintenance process with Township. Moore will discuss with Tri-County.

Washington County Code Red: Flyer regarding Code Red registration has been sent out to all Township residents. Denmark website has links for registration. Anyone not able to access a computer can register via phone, with the Washington County Sheriff's Office-Doug Anschutz at 651-430-7846.

Code Enforcement: Township has been working with Cottage Grove enforcement officers and the Washington County Department of Health regarding a code enforcement issue for clean up on a Denmark property. A quote of \$15,300 was received for the clean up. Quote does not include removal of hazardous waste or shed tear down/removal. County declined covering the cost. Denmark does have the option of covering the cost of the clean up and then assessing the property owner for the cost. Issue has been going on for some time, Board not comfortable that property would stay clean once cleaned up. Board consensus that Township will not abate clean up costs and homeowner will need to comply with clean up requirements.

Eagle's Watch Trees: Resident questioned whether the trees that have been replaced in Eagle's Watch are planted in the easement or on private property. Higgins and Moore will review the site/plan/plantings.

RFP's: Board interviewed candidates for Planner and Engineer. References have been contacted.

Motion Moore/Keller to appoint Focus Engineering (Ryan Stempski) for Township engineering services. All In Favor. Motion Carried 4-0.

Motion Kramer/2nd Moore to appoint WSB & Associates (Kelsey Johnson) for Township planning services. All In Favor. Motion Carried 4-0.

Attorney will work with both firms regarding contracts.

Clerk will work with planner and engineer regarding data requests to TKDA.

Board consensus to have attorney/clerk draft and send 7 day notice of termination to TKDA for planning and engineering services.

Amend 2011 Budget: 2011 Roads Budget included drawing \$250,000 from savings for the purpose of paving of a mile. Board decided not to spend monies on a 2011 paving project, due to the current economy. Budget should be amended to reflect the Board's decision. **Motion Keller/2nd Moore to amend the 2011 Budget by reducing the roads budget \$250,000.** All In Favor. Motion Carried 4-0. Roads budget of \$443,350 reduced to \$193,350. Total budget of \$810,834 reduced to \$560,834.

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LEGAL UPDATES:

Ordinance Amendments: 2011 Amendments have been published and are in effect. Attorney will incorporate the amendment language into the ordinances.

Special Events: Attorney submitted memo regarding special events for Board review. Board will review information for discussion at December Board Meeting.

Rumpca: Attorney has sent letter to Rumpca regarding resident concerns. Keller will review concerns with Rumpca at the site.

Electrical Inspections: State is currently performing Denmark's electrical inspections. Cottage Grove currently providing electrical inspections directly via subcontract. If we have Cottage Grove Building Department perform electrical inspections in Denmark, we would be required to adopt an ordinance relating to that or incorporate into current agreement with Cottage Grove. Board consensus to work with Cottage Grove to perform electrical inspections. Attorney will work out proposal and bring back to Board in December.

Resignation: Supervisor Dixon has tendered his resignation from the Board, effective 11/07/2011. **Motion Keller/2nd Moore to adopt Resolution 2011-15 A Resolution Accepting A Supervisor's Resignation And Declaring A Vacancy In That Position (Seat 5). All In Favor. Motion Carried 4-0.**

John W. Kummer sent a letter of interest in filling the vacancy. Discussion regarding an appointment without advertising the position to make available to all residents. Several Supervisors recognized Kummer's past experience as Township Roads Supervisor and supported an immediate appointment to Dixon's vacant seat.

Motion Moore/2nd Keller to appoint John W. Kummer to Seat 5. Voting Yes- Higgins, Keller, Moore and Herman. Voting No- Kramer. Motion Carried 4-1.

Seat would be up for election November 2012 and held until 1st Monday of January 2013. November 2012 election for Seat 5 would be for the unexpired 2 year term on the seat.

Pribnow Lot Line Adjustment: Attorney is working with Pribnow regarding the legals for the Lot Line Adjustment.

9:35 PM **Motion Moore/2nd Keller to adjourn. All In Favor. Motion Carried 4-0.**

Becky Herman

Denmark Township Clerk/Treasurer

Addendum Resolutions 2011-14 and 2011-15

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DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
RESOLUTION NO. 2011-14

RESOLUTION APPROVING A CONDITIONAL USE PERMIT
FOR THE PROPERTY LOCATED AT 12271 MARGO AVENUE S.

WHEREAS, Christopher Carey ("Applicant"), owner and president of CMC Enterprises Inc. (d/b/a Modern Automotive Performance) desires to operate his business from the property (PID 06.026.20.23.0009) located at 12271 Margo Avenue S. in Denmark Township, Washington County, Minnesota, and legally described in Exhibit A, which is attached hereto and made a part of this Resolution ("Property");

WHEREAS, the Applicant has submitted an application for a conditional use permit ("CUP") to establish an automotive business on the Property that will include motor vehicle repair, light manufacturing and warehousing, and distribution;

WHEREAS, the Property is a 3.4 acre parcel with an existing 39,000 square foot building;

WHEREAS, the Pioneer Press currently leases approximately 7,000 square feet of the building for newspaper distribution and Applicant wishes to continue this use and lease;

WHEREAS, Applicant intends on using the finished 3,000 square foot office area of the building located on the Property for sales and administrative staff;

WHEREAS, the remaining unfinished portion of the building would accommodate motor vehicles, vehicle repair and engine performance work and light manufacturing of some parts;

WHEREAS, the Applicant indicates there will be no outdoor storage on the Property and no structural or exterior building changes;

WHEREAS, the Denmark Township Planning Commission held a public hearing on the requested CUP application, considered the Town Planner's memorandum dated October 12, 2011 concerning the CUP application, and on October 17, 2011 took action to recommend that the Town Board approve the requested application for the CUP with certain conditions; and

WHEREAS, the Town Board hereby finds and determines as follows:

- a. The Property is 3.4 acres in size and is located in the Commercial-Industrial (C-I) District;
- b. Motor vehicle repair, light manufacturing and warehousing and distribution are allowed in the C-I District with a conditional use permit issued by the Town;
- c. The request is consistent with the Comprehensive Plan;
- d. The CUP application is consistent with the development code standards for the proposed uses pursuant to the Denmark Township Development Code ("Ordinance");
- e. As the Applicant does not propose any changes to the dimensions of the existing building, parking dimensions, or dimensions of the parcel, the proposed uses meet the lot coverage and setback requirements;
- f. The existing parking lot on the Property contains 80 parking stalls, exceeding the number of spaces required;
- g. The Applicant has not requested any outdoor storage of vehicles or equipment in the parking lot area;
- h. The existing landscaping generally conforms to the landscaping plan;

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- i. The proposed uses will not create negative impacts on local utilities, school capacities, property values, scenic views or natural resources;
- j. No potential impacts were identified to the health, safety and general welfare of the occupants of surrounding lands; and
- k. The Town Board determines the use, as proposed, satisfies the criteria for granting a conditional use permit in Chapter One, Section 10.3 of the Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of Denmark Township, based on the planner's report, the record, and the findings and determinations contained herein, hereby approves the CUP in order to allow the Applicant to operate an automotive business as described herein on the Property provided the Applicant complies with, and remains in compliance with, all of the following conditions:

1. The uses allowed are Motor Vehicle Repair, Light Manufacturing, and Warehousing and Distribution to allow for operation of Modern Automotive Performance. Internet and phone order retail sales of autos and auto parts and equipment with limited on-site sales, and office use associated with the business are permitted as part of the Light Manufacturing and Warehousing and Distribution uses.
2. The Applicant shall obtain a Conditional Use Permit from Washington County for the proposed use.
3. No vehicles shall be parked on the premises, other than those utilized by employees and customers. Outdoor storage of vehicles and related materials shall be prohibited. No debris shall be kept outside and existing debris shall be removed from the Property by February 1, 2012.
4. The Applicant may lease 7,000 square feet of the building to a tenant for the sole purpose of newspaper storage and distribution.
5. The Applicant shall obtain the required Washington County wastewater treatment system permit before Modern Automotive business use commences. A copy of the system compliance inspection report and a copy of the County permit shall be submitted to the Town.
6. A drainage system for collection of any hazardous material run-off must be installed before any automotive work may begin on the Property. Applicant shall also complete all required improvements found through the compliance inspection must be made.
7. The dynamometer used in the business and any other sound generating activity occurring on the Property must conform to MPCA noise standards. The dynamometer will be used only between the hours of 9 a.m. and 6 p.m.
8. Any Federal, State, County and local permits shall be obtained, including a building permit. The building must comply with the building code and pass inspection before Modern Automotive business use commences.
9. Existing landscaping must be maintained and any plantings that do not survive must be replaced. Additional landscaping in the rear yard is required to help buffer the use from adjoining property, which is currently not developed. When the adjoining property, which is zoned for residential development, begins to be developed (the issuance of a permit by the Town to construct a residential dwelling shall constitute the beginning of development) the Applicant shall be required to submit a landscaping plan for the rear yard to the Town for the Planner's approval. Plantings and other work required to implement the landscaping plan approved by the Planner shall be completed within 90 days from the beginning of development of the adjoining property.
10. Before putting up any signage, the Applicant must obtain a permit from the Town and the sign must conform to Ordinance requirements.
11. The Applicant shall pay all application fees and pay, from the escrow or in addition to the escrow if it is not sufficient, the costs the Town incurred related to this application.

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12. A failure by the Town to take action with respect to any violation of any condition, covenant or term of this CUP shall not be deemed to be a waiver of such condition, covenant, or term or any subsequent violation of the same or any other condition, covenant or term.
13. Any alteration of the use of the Property, or of any plans submitted related to those uses, including, but not limited to, expansion of the use beyond what is allowed by this CUP, shall not be permitted unless an amended conditional use permit is issued by the Town Board.
14. This permit is subject to the requirements of the Town's ordinances and the Applicant is required to comply with all applicable federal, state and local laws, rules and ordinances, and to obtain such other permits as may be required.
15. The Town may inspect the Property at all reasonable times for purposes of ensuring compliance with the conditions of this CUP.
16. The Applicant shall correct all defects on the Property which violate any of these conditions immediately, but in no case more than 30 days of receipt of written notice from the Town.
17. The conditions of this CUP shall run with the Property and shall not in any way be affected by the subsequent sale, lease, or other change from current ownership of the Property and all references to Applicant or owner herein shall include all successors and assigns.
18. Pursuant to the Ordinance, periodic review of this CUP is imposed as a condition of its grant. Adherence to the terms of this CUP may be reviewed annually at the Annual Town Meeting.
19. Utilization of the Property for any of the uses allowed by this permit shall be deemed acceptance of, and agreement to, the terms and conditions of the permit without qualification or reservation.

Adopted this 7th day of November, 2011

BY THE TOWN BOARD

**DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
RESOLUTION NO. 2011-15**

**A RESOLUTION ACCEPTING A SUPERVISOR'S RESIGNATION
AND DECLARING A VACANCY IN THAT POSITION**

WHEREAS, Supervisor Gary Dixon submitted a letter of resignation to the Town indicating that he is resigning from his position as Supervisor on the Town Board of Denmark Township effectively immediately;

WHEREAS, Minnesota Statutes, section 351.02 indicates that an office becomes vacant before the expiration of the term upon the incumbent's resignation; and

WHEREAS, Minnesota Statutes, section 367.03, subdivision 6 provides that when a vacancy occurs in the office of supervisor the vacancy is filled by appointment made by an appointment committee comprised of the remaining Supervisors and the Clerk-Treasurer. The person appointed to fill the vacancy then holds the office until the next annual town election, at which the position is up for election for the remainder of the term.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby accepts Gary Dixon's letter of resignation and declares a vacancy in the Supervisor position created by his resignation effectively immediately. The appointment committee shall act within a reasonable time to appoint someone to fill the vacancy.

Adopted this 7th day of November, 2011. **BY THE TOWN BOARD**