

DENMARK TOWN BOARD MEETING MINUTES
December 5, 2016

SUPERVISORS PRESENT: Kathy Higgins, Joe Moore, John Strohfus, K Herman

ABSENT: J Kummer

STAFF PRESENT: Attorney Gilchrist (Kennedy-Graven), Engineer Geheren (Focus)

CALL TO ORDER: Meeting called to order @ 7:05 PM by Chair Higgins

AGENDA APPROVAL: .

Motion J Moore/2nd K Herman approval of agenda as drafted. Voting Yes-J Moore, K Herman, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

CONSENT AGENDA APPROVAL: K Higgins pulled claims. **Motion J Moore/2nd K Herman approval of Consent Agenda items which include Minutes 11/07/2016 Board Mtg, 11/14/2016 Board of Canvass, EFT payments- PERA 398064, MN Rev. Tax 0396855616, Federal Tax 70782496, payroll ending 12/01/2016. Voting Yes- J Moore, K Herman, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.**

Pulled Claims- Kennedy Graven Claim #10825 amt \$4775.66. Claim inadvertently omitted mileage in the amount of \$73.44. Claim Total should be amended to \$4849.10. **Motion J Moore/2nd J Strohfus to approve claims #10804-10827 as amended. Voting Yes- J Moore, J Strohfus, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.**

PUBLIC COMMENT:

BUSINESS ITEMS: Resident expressed concerns regarding neighbors constructing a fence on what he believes is his property. Town Attorney noted that a property line dispute is not an issue that the Town Board can resolve. To the extent that a permit may be required under the code would be something that the Board can look at. Board consensus to contact Cottage Grove Building Dept regarding code compliance and whether a permit was needed for construction of the fence.

Temporary Accessory Structure: 13549 Pt Douglas Dr S. Wayne Fischer and Heather Kroona are requesting a 6 month extension of time to remove the storage pod on their property. The property owners were sent notice via letter dated 11/09/16 from the Cottage Grove Building Official, in which they were noticed that they were in violation of the code in that no detached accessory structure shall be located closer to the road right of way than the principal building, and that a permit is required, and that a portable pod is allowed for a period of no longer than 30 days. The property owners were required to remove the structure by 11/23/16. The property owners requested additional time to remove the pod and Town Staff granted an additional 2 weeks (to 12/07/16) from the original compliance date to remove the container.

At this time, the property owners are building a garage in St Paul and intend on moving the property from the container to the St Paul garage, which likely would not be finished until spring 2017, hence the 6 month extension request.

Attorney noted that the Board could grant an extension if inclined to do so, but granting that should be conditioned upon the owners being required to obtain a permit, so the permit could be extended. If the Board does not grant an extension, the property owners would be in violation following the current 12/07/16 date for removal.

Board not in support of a 6 month extension for removal of the pod in finding that the pod on the property has been out of compliance for 2 years and that there are other options such as renting a space to place the pod contents and removing the container from the property. Board consensus to extend the enforcement extension to 12/31/16 deadline for removal of the storage pod, with no requirement for a permit to be obtained.

Motion J Strohfus/2nd J Moore to grant an extension of enforcement to 12/31/16 for removal of the storage pod, with no requirement for a permit to be obtained. Voting Yes- J Strohfus, J Moore, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

Comprehensive Plan Proposal: WSB provided the Board with proposals to complete the Comp Plan. The first proposal (\$68,600) was completion of the Plan by WSB with assistance from Focus. The proposal included cost estimates from the transportation, water, wastewater, and surface water groups as a starting point. The second proposal (not to exceed \$22,800) removes the infrastructure items from WSB which would be for WSB to update all of the required elements except for the transportation, water, wastewater and surface water. WSB would update the data, completing the Met Council checklist for land use, housing, MRCA Plan, implementation chapter,

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coordinating with the Met Council and Public Survey. Focus would need to coordinate the transportation and water elements of the Comp Plan. Proposal meets the minimum Met Council requirements. Higgins noted that Denmark is a Town, with an existing Comp Plan. Doesn't believe that the Met Council system statement for Denmark would require the Town to go to the same level of detail that would be required of a city. In addition to the WSB proposal, Denmark would still need to pay Focus should they decide that they could complete the transportation/water elements of the Comp Plan. Town options could include requesting quote from Focus for transportation/water elements, or send out RFP's for Comp Plan work. Cara did note that she would have to look into what Focus may be able to provide and at what cost, but may still need some technical assistance from transportation and water resource engineers. Deadline to submit Plan for 6 month review period is end of June 2018. Higgins suggested Town, Planner and Engineer meet with Met Council regarding expectations for the Comp Plan detail. Board consensus for suggested meeting. Strohfus would also support RFP's with cost restrictions. Attorney noted that many Towns in Dakota County do a joint rural collaborative Comprehensive Plan.

Washington County Deputy Gribble in attendance. Sheriff's Office received noise complaints in the Township. Officer will be speaking with those causing the noise nuisance. State Statute does allow citations for public nuisance. Other violations include riding a dirt bike on a Town or County road. Violators would be initially warned and a second violation would constitute a citation. Town requested that the Sheriff's Department keep Denmark informed on any actions they may take in the Town. Resident asked that the sheriff's department monitor the noise/speed made by the trucks in Oakgreen. Deputy noted that they would have to actually see/hear violations in order to cite a vehicle.

MnDOT/Denmark Maycrest/Hwy 61 Maintenance Agreement: Attorney provided resolution related to ownership and maintenance of Maycrest Ave S. Maycrest has been completed and signage will be going up. Focus has completed a walk through and is recommending that the Board move forward with the resolution. **Motion J Moore/2nd J Strohfus to adopt Resolution 2016-23 Authorizing An Agreement With The Minnesota Department Of Transportation Regarding The Relocation Of Maycrest Avenue. Voting Yes- J Moore, J Strohfus, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.**

Oakgreen Guardrail Claim: Error in measurement and miscommunication resulted in estimate and final cost for Oakgreen guardrail to be quite far off. J Strohfus has spoken with Ken Johnson (sales for Warning Lites). Upon receiving little satisfaction, he contacted the owner of the company. Owner and John came to an agreement to pay the regular price for 300 ft for 24.85/ft (\$7455) and the additional 50 ft for 12.00/ft. (\$600) Total cost of \$8055.00. J Strohfus believes the discount offered to Denmark is reasonable and recommends paying the adjusted amount. **Motion J Strohfus/2nd J Moore to approve claim #10828 Warning Lites in the amount of \$8055.00 per agreement with owner of the company. Voting Yes- J Strohfus, J Moore, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.**

Oakgreen resident questioned why the Town would be paying for a guardrail on Oakgreen when Rumpca is responsible for Oakgreen. J Strohfus explained that the Town has been working with Rumpca regarding Oakgreen matters. Agreement is loosely defined as to what specifics are covered and what is not. There were negotiations between Rumpca and the Town Engineer regarding full resurfacing of the road at higher specs than what Rumpca likely initially wanted to do. When the road was installed, it resulted in a higher elevation. The Town worked with Rumpca to grade farther out and add black dirt. Issue of increased height was brought forward as a safety concern so either the Town would need to replace their culverts or install a guardrail for safety. Town believed the cost of the culverts was not worth renegotiating the other planned work that Rumpca had agreed to. Second Oakgreen resident questioned increasing the elevation of the road, causing additional fill at driveway accesses. Resident also noted that he cannot drive out of the ditch, unless he goes out of his driveway. Engineer- Contractor did a combination of improvements based on the pavement condition. Some sections were a typical overlay, so if the road wasn't falling apart, they added additional material over the top, which is quite standard. This can't be done over and over, at some point you need to remove the surface that's there and put on a new surface. In other sections that were falling apart, they applied a similar technique that was completed on 80th St, in which they reclaimed some of the surface material that was there and put on a new surface. Resident requested that the next time the road was resurfaced, that it be ground down to the original surface.

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Solar Survey: Solar moratorium ending in March 2017. Board discussion regarding the solar survey. The survey appears to reflect that the Town residents have many questions regarding solar gardens. Most residents are supportive of personal solar panels.

K Higgins- Looking at the Comp Plan, the ag/rural nature of the Town could support commercial solar facilities in the commercial area. Survey indicated comments regarding the same. Would not like to see the Town deal with large scale industrial commercial solar facilities. Would support an ordinance clarifying what type of residential panels are allowed and establishing guidelines for those and limiting commercial type facilities to the commercial area.

J Moore- Questioned with the little commercial land in Denmark, what would really be accomplished other than a test. With Cottage Grove's planned solar facilities, we may get a better perspective on the issue.

J Strohfus- main issue is that the ordinance is silent on solar. We should draft an ordinance regarding the Town's position at this time on solar. This could always be amended at a later time. Excluding commercial solar in all districts including in the commercial district, should not exclude properties in the commercial district from being able to install personal solar panels on their buildings/property. Concerns focus around the sustainability of agriculture and aesthetics, property values- not necessarily principals of using this technology for financial gain.

K Herman- When attending the solar meeting at the Metro Square Building, one issue raised was the technology involved in the solar and how that is rapidly getting more efficient. Something put in today that is supposed to last 25 years will be obsolete in a handful of years. The question becomes what to do with obsolete equipment and is it cost efficient - who then is responsible for replacing it or updating the technology. There were a lot of concerns regarding solar, including whether solar is cost effective in Minnesota. Would support drafting a solar ordinance that can, if necessary, be updated at some point and see how Cottage Grove solar facilities do.

Board support for solar panels on property in all districts, to be used for the property for personal purposes, which is currently allowed. Not in support of commercial scale solar that would be generating electricity to be sold on the grid. Attorney will provide Board with draft ordinance for review, and then ordinance will go before the planning commission for a public hearing in January.

Noise Complaint: [excerpt from 11/07/16 Board Meeting] Town received complaint from resident regarding noise from dirt bikes. Resident is requesting that the Town consider adopting a noise ordinance. Problems with noise ordinances are that they are difficult to enforce. You can have a decibel standard, which currently exists with the PCA. A landowner could attempt to seek enforcement of those existing state rules. A general public health nuisance ordinance could be created which would address noise so loud that it creates a disturbance for the average person. Both are difficult to enforce. A record would need to be created to support the violation. Violator would be noticed. If violation continues, issue would be brought to District Court where it would be a much harder standard when addressing noise. Board will review complaint and address at December Board Meeting.

Discussion re: noise ordinance.

Moore- would be in favor of a noise ordinance, but am aware that a Town ordinance could produce many issues.

Strohfus- not in support of adopting a specific ordinance, and to deal with the other ramifications that it creates. Rather, would support law enforcement pursuing specific complaints, based on state statutes. Town may be better off without an ordinance. If the sheriff's office is called with a complaint, the sheriff comes out to address the complaint, recognizes the equipment is in violation of state law, or possibly witnesses a violation, can issue a citation based on state statute, which may have more impact than any Town noise ordinance violation.

K Herman- should consider an ordinance, as this is not the first time this has come up. As the Town grows, with new residents who may or may not be cognizant of the rules, or may simply choose to ignore them, there should be some mechanism to address the issue.

K Higgins- Have concerns regarding the enforcement part of it. Couldn't support putting the Town through the enforcement nightmare and additional expense of prosecuting. With the motorcycle runs on St Croix Trail, complaint/citations could be many and very problematic/expensive for the Town to enforce/prosecute.

Board consensus to monitor issue with sheriff involvement.

2017 Development Review Schedule: Board meetings are set on the first Mondays of the month. Planning Commission meetings are set on the third Mondays of the month. Holidays that fall on a meeting Monday are moved to the following day (Tuesday). Board consensus that when a holiday falls on a Monday meeting date, the meeting will be scheduled for the following Thursday. January Board Meeting will stay on Tuesday, January 3, 2017. Clerk will send out revised Development Review Schedule. Clerk will post schedule with notice that there is always a possibility that there may be a Board quorum at any Planning Commission Meeting.

Motion K Herman/2nd J Strohfus to approve 2017 Development Review Schedule with changes as noted.

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Voting Yes- K Herman, J Strohfus, J Moore, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

Pay 2017 Final Levy Certification: Motion J Moore/2nd K Herman to certify the Payable 2017 Final Tax Levy in the amount of \$414,087.00. Voting Yes- J Moore, K Herman, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

Public Comment- Oakgreen resident stated that he has not seen loaded trucks pass his house prior to 7AM, but knows they must be loading in the pit before 7 AM because loaded trucks come past his house a few minutes after 7AM. Resident noted that the Board at a prior time said that they could not amend the permit to start time at 9AM. When permit was issued, the Planning Commission recommended and the Board approved start time at 7AM. Board consensus that the start time will not be amended. Town is monitoring loads with start times stamped on the tickets.

LEGAL REPORTS: None

Motion J Moore/2nd K Herman to correct the 11/14/16 Board of Canvass Minutes to change the Supervisor Seat 3 name from Kathy Higgins to John Strohfus. Voting Yes- J Moore, K Herman, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

9:46 PM **Motion J Moore/2nd K Herman to adjourn. Voting Yes- J Moore, K Herman, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.**

Becky Herman

Denmark Township Clerk/Treasurer

Denmark Township Chair

Addendum Resolution 2016-23

WASHINGTON COUNTY, MINNESOTA
Resolution No. 2016-23

**RESOLUTION AUTHORIZING AN AGREEMENT WITH THE
MINNESOTA DEPARTMENT OF TRANSPORTATION
REGARDING THE RELOCATION OF MAYCREST AVENUE**

WHEREAS, Denmark Township ("Town") has worked with the State of Minnesota, Department of Transportation ("State") regarding State Project No. 8205-137 (T.H.61) that involved the relocation of Maycrest Avenue to the T.H. 10/61 intersection and construction of a Lando Infiltration Basin and associated structures; and

WHEREAS, the State has constructed the Project and the Town and the State desire to enter into MnDOT Agreement No. 1002480 ("Agreement") to address the maintenance and ownership by the Town of the relocated Maycrest Avenue and the Lando Infiltration Basin, and the associated structures.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board as follows:

1. The Agreement with the State (MnDOT Agreement No. 1002480) is hereby approved.
2. The Town Chairperson and Clerk-Treasurer are hereby authorized to execute the Agreement on behalf of the Town and to take any other actions as may be required to carry out the intent of this Resolution.

Adopted this 5th day of December, 2016.