

PENINSULA TOWNSHIP PLANNING COMMISSION AGENDA

13235 Center Road Traverse City, MI 49686

January 22, 2018 7:00 p.m.

**1. Call to Order** at 7:00 PM by Couture

**2. Pledge of Allegiance**

**3. Roll call:** Couture, Peters, Elliott, Wunsch, Serocki, Shipman (**Hornberger excused**)

Also present Brian VanDenBrand, (Township Planner), Gordieon Hayward

**4. Approve Agenda** Wunsch moves that Business item B on Flood Plain Controls be tabled until the February Public Meeting and item b under the consent agenda be moved to item e under Business. Peters second. **PASSED UNAM**

**5. Brief Citizen Comments**

**6. Conflict of interest** Peters, Wunsch, ~~Hornberger~~, and Shipman have either donated to or are members of the **library** friends group.

**7. Consent Agenda**

a. Reports and Announcements

b. Correspondence (as provided)

i. Ms. Cindy Ruzak letter dated 1/17/18 re: Bed and Breakfast

c. Approval of Meeting Minutes

i. Planning Commission Regular Meeting December 18, 2017

**8. Reports and Updates**

a. Township Board – None

b. Zoning Board of Appeals – No meeting in January; Flood Plain Fill In Case went to court and Township lost.

c. Park Commission – Park Commission presents the 5-Year updated Parks and Recreation Plan tomorrow night (January 23, 2018) at the Peninsula Township Board meeting. This is not a commitment for funding, but opens up opportunities for grants if approved.

**Public Comments**

e. Cindy Ruzak (1994 Carroll Road) (read her letter dated 1/17/18 re: Bed and Breakfast

I would like a clarification why the letter I sent to the PC at the request of the Planner resulting from last week's meeting as mentioned in my letter has been placed on the consent

calendar. Unless there is a specific purpose to automatically approve certain portions of the letter that are considered acceptable under the current B & B ordinance definition through this consent mechanism, or similar reason; I would then request instead that the item be moved to the agenda for a full discussion.

Then, instead of tabling a detailed discussion, and further delaying action on this topic, to next month's PC meeting I would suggest in order to expedite matters that the subject could be delegated to the joint Board/PC Committee discussing short term rentals, that I have been advised has recently been formed. If this is the course the PC wants to take then this committee would need to be tasked with developing a proposal for a comprehensive accommodations ordinance, so that the limited discussion of short term rentals nuisance issues can be resolved within the larger context.

As this issue is something with which I have been dealing for 15 years, I would also like some assurances that the issue would not merely be shuffled off to yet another committee but would be sent with a commitment from the Planning Commission that the resolution would remain in the realm of their responsibility to complete for Town Board approval.

Also, while I am not here to dictate the parameters of a timeline, in light of the many delays and frustrations the bed and breakfasts with larger acreage have experienced trying to get consistency and equity written into the land use portion of this ordinance, I respectfully request that a specific fairly short timeline for action to be taken be included in the delegating of this issue by the PC to the committee. I am, however, requesting a specific plan of action, that after it goes to this or other committee, then what will happen.

My own experience on the subject would suggest, and again an effort toward which I offer my own assistance, that the majority of a comprehensive accommodations ordinance covering short term rentals, B&B's, country inns with related procedures and nuisance guidelines could be written within a month, maybe two, and is in fact already outlined in the letter you have before you. Then maybe another month of tweaking minor issues definitive legalize terminology and zoning requirements, it could be brought to the Town Board.

## **Business**

### a. Public Hearing - Peninsula Township Library – Requested Special Use Permit

VanDenBrand: On December 18, 2017 the plan was presented at the Planning Commission Meeting. The items addressed were storm water control, site lighting, shielding neighbors from headlights, landscaping, overhead power lines, site circulation/sidewalks, and overflow parking. The main change that has occurred is moving the driveway farther east toward Center Road. VanDenBrand has talked with fire chief and the powerline overhead needs to be 15 ½ feet high.

Bob Verschaeve from Gosling Czobak (1280 Business Park Drive)

Last month the project was introduced. The road commission requested the driveway be moved closer to Center Road. The landscaping and lighting plans have been updated. The overhead power line is too low. Consumers Energy's potential solutions include installing taller poles or placing an additional pole between the two existing poles to raise the power line.

Nancy Davy (14713 Shipman Road) I am speaking on behalf in a positive manner for the library and the new building. For those of you who don't know me, my husband and I are the lead donors; we have made the most significant donation to this point. I am the President of the Friends of the Peninsula Community library. As President of the Friends, people ask about this organization and I am always excited because we have such tremendous support. That is what I would like to talk about this evening. During the Bay Shore Marathon 40 people showed up to man just one water table, the book sale had 60 volunteers, and the financial appeals letter received over 200 responses with donations. Daviesy asked anyone in the audience who was there to support the library to stand. (Estimated ¾ of individuals in audience stood up). The passion, the support, and attitude of the community toward this project are just tremendous.

Vicki Shurly (1156 Lin-Dale Drive) I am the Township Librarian Director. I was talked into this job ~~two years ago~~ by Julie Maxson, the former director and our esteemed Mary Johnson, who served on the library board for over 20 years. I have come to realize what an honor it is to serve as the Township Library Director and have been be overwhelmed by the support for the new library. People who did not know we are a public library have come out of the woodwork offering donations and support with time and resources. I want to thank the commission for their support and in a community where the average age is 68 years old, the possibilities in a building where we have say over what we can do are endless. We are very excited about this project. This is a good thing for the community.

Heatherlyn Johnson Reamer (3566 Thistledew Drive) I also was worked on by Julie Maxson and my grandmother to be on the Library Board working was the incredible staff and director. We are beginning the process with our architects, Cornwell Architects of Traverse City on the construction documents so you know how close we are. We have wonderful friends and the whole community has been behind us. Thank you for all of your support. I cannot wait to see you when we walk through those doors together.

Cindy Ruzak (1994 Carroll Road) I think this project is amazing. I applaud everyone who has been supportive of this project. What this Planning Commission and Township Board needs to remember when they are approving this wonderful and well supported project, I hope that you consider when you have events in the community room there is some equality between different places trying to do events and what kind of capacities they can have because ... I certainly think that in some cases events have been micromanaged rather than buy space in the past. All I ask is that as we move forward with this great project that there is some equity and parity in how events happen in this community room as they do in other places in the township. You have talked about Party Barns and everything else. I would hate to see the township have this public supported event place turned into something like that. Thank you.

Vicki Shurly (1156 Lin-Dale Drive) As the Library Director, I would just like to address what Ruzak just stated. We are a public library; all public libraries have policies concerning the use of community rooms. They are generally restricted and free of charge to 503(c)s(3), other nonprofits such as the Boy Scouts, and the township meetings when they need more space. It would certainly be equitable. Libraries are not generally party spaces. There would be a policy to guard against that. Thank you.

Roger Myers (12655 Center Road) I own the adjoining piece of property to this development. Nobody is twisting my arm. I am actively working for this project. I am all for it as a neighbor

and I look forward to it being there. I look forward to seeing what can happen in a beautiful public library with a beautiful space. I own Bewitched Farm and I have put a lot of effort into making this an attractive piece of property and I am going to be working to make the library an attractive piece of property. I am really excited about this and I hope you are as well and I hope we can put some of these issues in your mind to rest. They are going to be a good neighbor and I am going to be a good neighbor.

Brit Eaton (1465 Neahtawanta Road) I am here to speak on behalf of those donors from Neahtawanta who could not be here tonight. Sixty percent of those are not residents and are from around the country. They think so highly of the library and Vicki's wonderful programs, we have come up with \$50,000 to donate to the new library. I look forward to your passing this request.

Chad Hartley (1634 Moonrise Court) We have four small children and three who go to Old Mission. I have two technical questions about the site plan as I am not really familiar with it. Have there been provisions made for expansion in the site plan? Is there a plan to have a pedestrian path from the soon to be charter school to the library? I know my kids would love that direct access there. I am not sure who would be the best person to answer those questions.

Vicki Shurly (1156 Lin-Dale Drive) I guess I would be. We have worked very closely with Candy Gardner on the foundation plan. We would want to serve that community. As far as expansion, our current space is 3,100 and the new space is 5,600 square feet. In a community of 5,800 hundred, expansion would be far in the future. We have had a discussion with Rob Manigold and he would love to make that a reality at some point. The trail would cross private land and we are friends with them. We promised the voters we would operate within our current budget. As we are a taxing agent, we promised the taxpayers we would not ask for any more money.

Stuart Lazar (16781 Terrace Drive) I want to speak for people who could not be here tonight. There are a lot of people here tonight who support the library. I would like to thank Vicki Shurly for all that they do for the kids. My daughter has been going to the library since she was 12 months; unfortunately she cannot read yet as hard as we push her and it is a really great place for her to socialize with other kids. The 521 program that is put on is also a good program. Increased space would probably bring more kids and as the peninsula continues to develop and as more houses go up, we need more space for families and there is not a lot here on the peninsula. This program will be a God send. We really hope you approve it.

Fred Zwemer (2271 Twin Eagle Drive) I am a transplant. I came up from Troy 20 years ago. We think the library expansion to this peninsula is tremendous. I use the library a whole lot and I am very happy that it is growing and it is a really good set up and I think the new program is going to be even better. We are very fortunate to have a library coming in of this quality. Thank you.

Bob Shurly (1156 Lin-Dale) I wanted to bring one thing that is really important. The whole time that Vicki has been director there has been a surplus in the budget. Unlike the federal government and the state government, they have been spending money beyond what they should be; Vicki, as well as the board has been able to have a surplus and they have done really well with their money. I am really proud of my wife and the board.

**End of public comments.**

Couture asked if members of the commission had any questions. Peters would like to ask the planner if anything has changed. Peters believes most of her concerns were addressed at the last meeting and wants to know if there have been any changes since then.

Bob Verschaeve from Gosling Czobak

The only items tweaked were planting a different type of deciduous tree to replace the initial ones due to concern of beech bark disease. There were also changes in the parking bio-swale. Looking at the aerial photos, this gentleman's farm (Myers) sits to the north about 40 feet from the power line. We placed the trees so that the head lights will not hit his house as they turn in the driveway.

VanDenBrand: I would just like to say that it has been refreshing working with Verschaeve, as he was accommodating and worked with the planning department every step of the way.

VanDenBrand: The next step for the Special Use Permit (SUP) is Planning Commission and Township Board approval. What I would suggest is to adopt a motion to direct staff to prepare findings in support of approval.

Wunsch: I guess my only question to Ruzak's point would be if you guys would be willing to work with the library to include the standard event's policy to the SUP to prevent future changes.

VanDenBrand: Yes, that would be fine.

**Action-Motion** Elliot moves to direct staff to prepare findings in support of an anticipated decision for approval on the Peninsula Community Library. Second by Wunsch.

**PASSED UNAM**

**Action-Motion** Serocki makes a motion that the Consent Agenda stand as amended. Wunsch second.

**PASSED UNAM**

b. Public Hearing – Proposed zoning ordinance amendments:

- Section 6.9.3.7 and 7.4.7 Flood Plain Controls

**VanDenBrand:** Wetland and flood plain controls notice for a public hearing was published in the newspaper. Late last week we received additional comments from our attorney. In speaking with Serocki and Peters, we would like to meld these two ordinances drafts. What I would propose is that we put off the public hearing for one month.

Couture asked if there was anyone in attendance who would like to make a public comment on this issue.

There were no public comments.

**Action-Motion** Wunsch moved that the public meeting on Section 6.9.3.7 and 7.4.7 Flood Plain Controls be rescheduled until February 26, 2018. Peters second.

**PASSED UNAM**

- Section 4.2.1 Enforcement / Violations and Penalties

PENINSULA TOWNSHIP DRAFT FOR SECTION 4.2.1 ENFORCEMENT

Violations and Penalties. Any person, firm, association, corporation, company, or other entity which fails to comply with any Peninsula Township Ordinances, Michigan law, or any regulatory measures or conditions imposed by the Planning Commission, Zoning Board of Appeal, or Township Board shall be found in violation. If such violation has not abated, ceased to exist or otherwise been remedied of the **within seven days after written notice violation has been sent**, the violator will be deemed to be responsible for a municipal civil infraction as defined by Michigan statute. This infraction shall be punishable by a civil fine in an amount to be determined for each violation. The amount will be determined by the Township violation fee schedule, or in an amount determined by the Court, along with all expenses (direct and indirect) incurred by the Township. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as authorized under Michigan law. Provisions of this Ordinance may also be enforced by suit for injunctive relief. 12/5/17 laws

VanDenBrand: The only change is that violation time has been changed from 15 days to 7 days.

Cindy Ruzak (1994 Carroll Rd.) I encourage you to look at very clearly defined penalties that you can enforce and make them strong for all of the different behaviors you are discussing. One hundred dollars a day or a minimal fine does not make people do things if they can get around them. I encourage bigger fines. If you report you are running a short term rental the penalty is less. If you did not report this and you are running this illegally, the penalty would be doubled. This would really encourage people to tell you what they are doing.

**Action-Motion** Serocki moves to adopt Section 4.2.1 Enforcement / Violations and Penalties. Peters second. **PASSED UNAM**

c. Continued discussion of Junk Ordinance and Short Term Rentals

Wunsch: We are not ready to make any decisions at this time. We are working to tighten up the definitions of junk and blight. We had a good session with staff to establish where the primary issues with junk and blight are. Most are in residential zoned neighborhoods. One of the big pushbacks against modification to the junk ordinance came from sections of agriculture farming. The committee is still working to update those definitions of junk and blight. With short term rentals, the discussion continues. Looking at the equity of short term rentals and looking to allow some use, but not creating an easy path to achieve bed and breakfasts status as the bed and breakfasts have gone through a rigorous Special Use Permit process. We are holding a meeting tomorrow on both of these issues.

Elliott: Could a timeline be provided to the community by your committee?

Wunsch: Yes, we are looking to have these items wrapped up by the end of May, 2018, in time for the upcoming tourist season.

d. Year End Report

VanDenBrand: This will be the report to the Township Board as a summary of what occurred in 2017. We are going to mention Master Plan, Zoning Plan, Park and Recreation Plan, and

Development Applications. Requested the Planning Committee email him any comments they might have.

Peters: Wants to make sure that Ruzak's letter has been addressed. Read before the Business portion of the meeting.

Cindy Ruzak (1994 Carroll Rd.) What I don't think has yet happened that I would like to have happen is a plan. If you are going to send it to that committee, under what conditions is it going to that committee; is it going to stay with the Planning Commission level and the Planning Commission is going to develop the answers to the questions I have raised. There is a May date but this does not guarantee that this committee will address all of the issues I have been talking about and get this done. And for those of you who don't know, this last 15 years have been extremely painful and absolutely way too long of a process for this. I talked to Brian last June and we are slipping again. My biggest concern of being thrown into consent was I was going to get blown off again like I have been five times before. All I want is a plan; just tell me when it is going to get done, how it is going to get done, and who is going to get it done, and I will be fine with that.

Wunsch: If our sub-committee is leaning toward modifying the short term rental definition, it would be appropriate to look at some type of compromise.

Ruzak: If you are taking on that responsibility as the Planning Commission as well as the same responsibility as the sub-committee and they recommend this is the right thing to do, then there will be actual movement to do something.

Wunsch: We are shooting for a recommendation to the Planning Commission approval and then to the Township Board in whatever type of ordinance we make, short term rentals and bed and breakfasts will be shepherded through personally.

Ruzak: That would be great. You are talking about May and you know your own process and by the time it actually might get implemented would be half way through the season, so if you can try to push that timeframe up-to have the initial discussion in April with this is what we think we need to do, then there might be a change that it has gone through the Planning Commission by May.

### **Approval of the Minutes December 18, 2017**

Serocki: Under 7. Consent Agenda c iii was moved to 9 c. so the Consent Agenda was approved and amended. On page 2, the final sentence is incomplete-removed "No, it's a good thought, but." Insert No. Page 3 should have a c. placed in front of approval of consent agenda and delete missing.

VanDenBrand: Bob Verschaeve name was misspelled though out the document.

Elliott: Couture was absent from the meeting. Meeting called to order by Peters.

Peters: Page 2 under Reports and Updates, I think you want to say VanDenBrand reported that the Park Commission has finished a rough draft of a 5-year plan. On page 4, Peters comment should read "We did get back the zoning draft back from McKenna. After the beginning of the

year the zoning rewrite committee, Laura, Alan, and I will be going through it making sure the appropriate changes are made.”

**Action-Motion** Serocki moves that the minutes be accepted as amended. Second by Wunsch.

**PASSED UNAM**

## **10. Citizen Comments**

Nancy Heller (3190 Bluewater Rd.) Agrees with Peters’ suggestion that the name of the recording secretary and who edited the minutes should appear. None of us are going to be here in future years or even if we are here, you need reference people who citizens can go to. Minutes cannot be out in the wind with no one taking responsibility. Are corrected minutes posted online? How do constituents who do not come to meetings know there were corrections to minutes?

VanDenBrand: With all due respect, there is nothing in the law that says you need a recording secretary. Ultimately, the minutes that are adopted by the Planning Commission are the word of God. The initial minutes posted within 8 days are a draft. They are not official until adopted by the commission. There is a strike thru made for deletions and the correct information inserted in red, so you have a set of draft minutes and an official set of approved minutes.

Nancy Heller (3190 Bluewater Rd.) When are these minutes posted? I want to go on record as a constituent that I do not care what the law says- originator’s name needs to appear on the minutes. Thank you.

Cindy Ruzak (1994 Carroll Rd.) After we have had our discussion and Wunsch has volunteered to make part of his committee’s work the entire discussion of accommodations in an ordinance, is there a required motion for this or is that sufficient enough that it become his responsibility to get back to you and then you act upon it?

Couture: Just as a point of clarification, when we get to the audience, these are just citizen comments and not a conversation with the board. We appreciate your question, but it is really not supposed to be a dialogue; it is simply supposed to be comments.

## **11. Board Comments**

Peters: I am somewhat in agreement with Nancy Heller. I believe that the Town Board just put up some minutes which included the name of the recording secretary and then who edited those minutes. These minutes do become something that gets looked at and who knows who will look at them a decade down the line and if they are unclear as to what happened or who did what, it is a real disservice to what the record was. I wonder if having a second set of eyes looking at them in the draft form before they get posted could really help with some of these issues.

VanDenBrand: Yes, Donna and I look at the minutes. We do not want a court reporter. We want to record the general context of the discussion.

Peters: I wonder if these minutes went through that process. The fact that you have Alan running the meeting was missed as he was absent from the meeting.

Elliott: We are learning with many minutes and with the town board, ZBA, and ourselves that minutes are very important. The more complete and true to what happened—who did make the motion and who seconded that motion. The more accurate the minutes, the better for everyone involved. Often the minutes become part of a court record. I am frustrated with the recording of the minutes and I do not know where to take that conversation.

Peters: I just want to report that the zoning rewrite committee has indeed started its work and I am going to capture Couture and find out what date works. We would like to bring back a section at a time. We would like to start at the back and move toward the front. Also there might be less disagreement with the issues at the back.

## **12. Adjournment**

*Action-Motion* Motion to adjourn at 8:45 pm was put forth by Couture, second by Elliott.

**PASSED UNAM**

Lola Jackson

Recording Secretary