

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

Ph: 231.223.7322 Fax: 231.223.7117

www.peninsulatownship.com

Town Board Special Meeting

Township Hall

February 19, 2019

7:00 p.m.

Minutes - Draft

1. **Call to Order** by Supervisor Manigold at 7:00 p.m.
2. **Pledge**
3. **Roll Call**; Sanger, Wahl, Bickle, Manigold, Chown, Achorn
Absent: Wunsch – Also present; Randy Mielnik, Planner and Jennifer Hodges, GFA
4. **Brief Citizen Comments (for items not on the agenda)**
Joanne Westphal, Presented letter that was requested to be placed in the January 2018 newsletter, this was a farewell note which was not published in the newsletter, upon Westphal inquiring from Clerk Chown why this was not published in the newsletter it was stated that it was from the advice from the Township legal counsel that it not be placed in the newsletter. It was requested by Westphal that her letter be placed in the Township Board meeting minutes of February 19, 2018.

Prelude

This brief note was submitted for inclusion in the January Newsletter from the Township to its residents. Both I and the appointed clerk who was to take office on January 1, 2019, agreed that a note from me would be appropriate. However, the farewell note was never published; when I inquired of the new clerk, Ms. Becky Chown why it was not put in the newsletter, she said it was on the advice of the Township Attorney, Mr. Meihn.

I would like to have this correspondence to my fellow residents placed in the minutes of this Town Board meeting (February 19, 2019), and thus, become part of the public discourse and record. Thank you.

"A Farewell Note From Your Elected Clerk—

Dear Residents of Peninsula Township:

It has been my honor and privilege to serve you over the past twenty-seven months as your elected clerk. I found my job extremely interesting, challenging, and rewarding, with work that was diverse beyond all my expectations. Most of all, I enjoyed representing you on some of the most difficult decisions facing the future growth of this Peninsula. Please know that I did my best to maintain a clear, objective, and informed view of the issues surrounding Town Board matters. In the end, my professional stand on matters affecting you, have caused me to retire early from my post. I ask you to stand vigilant in the decisions that are being made every day in the Township, because these decisions truly do affect your quality of life and rights as a property owner on the Peninsula. I also ask you to support the new clerk and deputy clerk, who will assume their demanding roles as public servants. Best wishes and fond farewell.

Joanne M. Westphal, Clerk
December 31, 2018"

5. **Approve Agenda**

Moved by Wahl to approve the agenda as presented, seconded by Bickle.

Passed Unam

6. **Conflict of Interest** - None

7. **Consent Agenda**

Any member of the board, staff, or the public may ask that any item on the consent agenda be removed and placed elsewhere on the agenda for full discussion.

1. Invoices (recommend approval)
2. Reports
 - A. Peninsula Township Engineer Report
 - B. Fire Department Monthly Report
 - C. Fire Department Annual Report, 2018
 - D. Code Enforcement Officer Report through December 2018
 - E. Peninsula Community Library Monthly Report
3. Correspondence
 - A. Brian Thomas
 - B. Former Peninsula Township Park Commission
 - C. Benjamin Marentette
 - D. Attorney Greg Meihn regarding Open Meetings Act
3. Minutes from township board special meeting on January 10, 2019, township board special meeting on January 16, 2019, regular township board meeting and joint township board and planning commission meeting on January 22, 2019, and township board special meeting on January 31, 2019 (recommend approval)
4. Emergency medical services (EMS) fee increase (recommend approval)
5. Request to add Benjamin Bakker to the fire department roster (recommend approval)
6. Appoint Isaiah Wunsch as township board rep. to the steering committee to update the township's master plan
7. Internship authorization for Scott Rokos

Bob Boleck, 7398 Peninsula Drive, requested that item number A. be removed from the consent agenda. Requested to add to this report on the drainage that was installed wanted add that they have gotten the water off the road but for the past 55 years, however water is still running by his property and it is still an issue with maintaining the ditch to take care of the water problem.

Manigold; Referred this to Jennifer Hodges of GFA to investigate

Achorn; Requested corrections to meeting minutes 1/16/19 bottom of page 2 should read HSA, minutes of 1/22/19 under item no. 9 Citizen Comments –Paradise Township, minutes of 1/31/19 bottom of 1st page – GTCA and checks and balances, requested this sentence be clarified.

Moved by Bickle to approve the agenda as amended, seconded by Whal.

Roll Call

Passed Unam

8. Business

1. Wastewater treatment plant refunding proposal (Bickle)

Bickle; Requested that item number 8, be addressed first and introduced the County Treasurer, Heidi Scheppe to present the new bond that is being proposed.

Meihn; Requested that an appropriate motion be made to move item number 8, of the agenda up to item number 1.

Moved by Bickle to move item number 8, of the agenda under new business to item number 1, on new business, seconded by Wahl.

Passed Unam

Heidi Scheppe, Grand Traverse County Treasurer, resolution in packet to approve for the refunding of the Waste Water Treatment bond. In 2011 the Township along with the City, Garfield, Acme, East Bay and Elmwood Townships to issue bonds for the City Waste Water Treatment Plant there is only three years left on the current bond and after the May payment the bond balance will be \$6,480,000.00, we have the opportunity even though there is only three years left to refund it that will generate a savings of approximately \$150,000.00 which will be dispersed back to the Townships depending on the shares of the savings. We have the ability to send out an RFP to the banks that will generate some low interest bids the benefit to this is that we do not have to go through the Standards and Cores rating and we don't have to pay for additional bond counsel cost and if we get a \$140,000.00 savings then we can avoid going out for bond costing. Either way this would be done if there was a savings and in order to do this the resolution has to be approved by the Township.

Manigold; Resolution was passed at the DPW, each individual Township and the City participating has to pass this resolution.

Moved by Manigold to accept Grand Traverse County's Resolution to authorize funding of Grand Traverse County, Traverse City Waste Water Treatment Plant Upgrade Refunding Bonds 2011, seconded by Bickle.

Roll Call

Passed Unam

2. Proposed fire station number 3 (Gilstorff)

Gilstorff; Presentation by Chief Gilstorff addressing issues that are weak in the Township, looking to the northerly portion of the Township to improve fire services and response times for the residents of Peninsula Township. Spoke about the ISO (Insurance Services Office) ratings which affect the cost of insurance paid out by the residents of the Township. The Township owns the subject property and the current structure located on this property is not sustainable for use of a station. Modifications would have to be made to the structure in order for the building to be beneficial for a proposed station. The proposed structure would be 30 feet by 40 feet and would be

moved to the westerly portion of the property. The cost of the new structure would run approximately \$76,500.00. Demolition of current building would cost \$6,700.00, the overall price of this project would be \$83,200.00. Moving a truck in this area improves the firefighter's response time with emergency services. Requested the Board to approve Chief Gilstorff to seek RFP's, the first would be for the demolition of the existing building and then to work with Gourdie-Fraser, Jennifer Hodges, to then go out for bids for the new structure.

Board discussion

Moved by Bickle to authorize Chief Gilstorff working with Gourdie-Fraser to go out for bids, would like to have at least three bids which will address the current facility and its demise, removal and or build-up, would also propose once we have information back, we set a public hearing to be held at a date yet to be determined.

Wahl; amended to add the public hearing should be held when summer residents are more likely to be here as there may be some backlash by the residents while they are vacationing, a date to be determined, seconded by Wahl. Passed Unam

3. Request for approval to seek bids on a new tanker (Gilstorff)

Gilstorff; There are five water sources on the Peninsula most of them are boat launches, which are on ramps the current vehicle needs to park on the ramp in order to gain access to the water resources this creates an issue as the current truck can only draft water from 20 feet away from the water source. Proposing to replace the current tanker with a vacuum tanker which would allow them to draft water from up to 70 feet away from the truck, this vehicle is also manpower friendly requiring less use of personal and increases from a 2,000-gallon tanker to a 3,000-gallon tanker. The proposed truck will allow 2 loads compared to the 1 load of the conventional tanker that the Township currently owns. Money is available in the fire budget for next year. Looking for a ten-year plan as the truck will cost around \$350,000.00.

Board discussion

Moved by Sanger to authorize Fire Chief to go out for bids for a new tanker, seconded by Chown.

Roll Call: Manigold – Yes, Chown- Yes, Achorn – Yes, Sanger – Yes, Wahl – Yes, Bickle – No.

Passed 5-1

4. Lease contract to purchase new fire truck

Bickle; The firetruck that was approved the accusation on was on a ten-year finance option so instead of one check this is split over a ten-year period it is not a lease just simply a finance, the payment schedule was provided in packets, seeking approval of the Board so the Clerk and Supervisor can sign the necessary documents.

Moved by Bickle to authorize the Clerk and Supervisor to sign the agreement, seconded by Wahl.

Roll Call: **Passed Unam**

5. Surplus fire department vehicles (Gilstorff)

Manigold; Talked about doing in the last meeting but was not clear in the minutes we have two vehicles, the Chiefs and the snow plow truck that we would like to declare as surplus to be sold.

Gilstorff; This would include the lights as the new vehicles would come with lights.

Moved by Bickle to declare these items as surplus, seconded by Whal.

Roll Call: **Passed Unam**

6. Correct motion from 1/8/2019 meeting

Meihn; Wanted a clarification of what was involved with this on January 8th, and how an issue was brought about and then he could legally guide the Board on what the actions should be.

Mielnik; This issue was discovered when Clerk Chown was doing her synopsis on recent meetings to be published in the paper. It was discovered in looking back at the minutes from January 8th there was a motion on the Farm Processing amendment, it was amendment number 197, to the Zoning Code in the material that was presented to the Board there was a list of three separate amendments to be made and during the meeting Rob read all three of those pieces to be amended and described the motion as amending all three and in the minutes that were prepared and adopted the motion that was made by Mr. Wunsch indicated only one of the three sections. Reviewing the tape from that meeting there was a clarifying question that was asked by Rob if he meant all three and the answer was yes. So, we have a situation where the minutes were approved but do not reflect the action that was taken so in discussion with Mr. Meihn, we have a modified amendment to the motion.

Meihn; Request that Mielnik identify all three that were supposed to be a part of the amendment.

Meilnik; They are listed in the minutes under the discussion from Mr. Manigold as he read all three of the sections to be changed, they are sections 6.7.2.19.b.4 number 2, the second was 6.7.2.19.b.6.5 and the third, 6.7.2.19.b. number 6.

Meihn; Outlines from the Open Meetings Act that a public body shall make corrections to the minutes at the next meeting after to which the minutes refer. This was a January 8th meeting those corrections should have been made at the next previous meeting so we are beyond that time frame by a few meetings. Those minutes usually become final and as a result you are subject to the Open Meetings Act to make any corrections at all to minutes that you have previously approved.

However, under Robert's Rules of Order eleventh addition which is recognized in the State if the existence of an error, material or omission becomes reasonably established after approval, even many years later, the minutes can then be corrected by what is called a motion to amend something previously adopted. It does require two-thirds vote or a majority vote or a vote of the majority of membership or unanimous consent. Discusses the appropriate motion.

Moved by Sanger to amend the January 8th decision regarding zoning amendment 197 which was adopted on January the 8th provide all three sections of the ordinance be included in said

motion, those sections being 6.7.2.19.b.4, 6.7.2.19.b.6 and 6.7.2.19.b.6 previous should have been b-5 and b-4.2 by these three sections, seconded by Bickle.

Roll Call: **Passed Unam**

7. Resolutions of support and authorization for improvements at Bowers Harbor Park via the Michigan Natural Resources Recreation Passport and Michigan Natural Resources Trust Fund (Hodges)

Hodges; Gave a history of the DNR Trust Fund grants that were applied for in 2018 and the DNR approval ratings for each of these grants. Looking to apply for these grants again for 2019 which requires new resolutions approved by the Township Board. Requesting to reapply not only for the DNR Trust Fund grants but also including resolution to apply for the Passport grants as well this is the same 50 percent matches as previously, these are due by April 1st.

Board discussion

Manigold; Whereas, Peninsula Township supports the Department of Natural Resources' (DNR) submission of an application titled, "Bowers Harbor Park Improvement Project" to the Michigan Natural Resources Recreation Passport for development of improvements to the playground equipment at Bowers Harbor Park.

Moved by Wahl to approve the above stated resolution, seconded by Bickle.

Roll Call: **Passed Unam**

Motion amended by Wahl to include the amended date of February 19, 2018, seconded by Bickle.

Roll Call: **Passed Unam**

Manigold; Whereas, Peninsula Township supports the Department of Natural Resources' (DNR) submission of an application titled, "Bowers Harbor Park Expansion Project" to the Michigan Natural Resources Recreation Passport for development of trails and parking at Bowers Harbor Park.

Moved by Wahl to approve the above stated resolution to include the amended date of February 19, 2018, seconded by Bickle.

Roll Call: **Passed Unam**

Manigold; Resolution of Support and Authorization, Whereas Peninsula Township supports the Department of Natural Resources' (DNR) submission of an application titled, "Bowers Harbor Park Improvement Project" to the Michigan Natural Resources Trust Fund for development of improvements to the playground equipment at Bowers Harbor Park.

Moved by Wahl to approve the above stated resolution to include the amended date of February 19, 2018, seconded by Bickle.

Roll Call: **Passed Unam**

Manigold; Whereas, Peninsula Township supports the Department of Natural Resources' (DNR) submission of an application titled, "Bowers Harbor Park Expansion Project" to the Michigan Natural Resources Trust Fund for development of trails and parking at Bowers Harbor Park.

Moved by Wahl to approve the above stated resolution to include the amended date of February 19, 2018, seconded by Bickle.

Roll Call: Passed Unam

8. Proposal for civil engineering services for the Bowers Harbor Expansion Trail (Hodges)

Manigold; Traverse City Track Club donated \$25,000.00, to support the project of the Bowers Harbor Expansion to the trails, the Township also approved a \$25,000.00 match to that project. The \$50,000.00 still needs to be used for a handicap accessible trail to connect to the existing trail. Requesting approval for Jennifer Hodges to go out for bids to complete this project.

Board discussion

Moved by Wahl to approve civil engineering services for Bowers Harbor Expansion Trail, seconded by Manigold.

Roll Call: Passed Unam

9. Bids for tree removal at the lighthouse (Mielnik)

Mielnik; Last year the Township requested an assessment on the forestry around the Lighthouse they came back with a report which identified a number of trees to be removed and pruned with a map indicating an outline of the work which needed to be completed. Some of this work could be done by Bob Wilkinson which left a number of other projects that still needed to be completed by an outside contractor. Request for bids was published and four bids were received and a fifth one was received past the deadline date. The lowest bid was from Brothers Tree Services. Mielnik has contacted the references listed by them, insurance verification is still needed for this proposal.

Board discussion

Moved by Wahl to approve Brothers Tree Services, Smith Road, Traverse City, for the amount of \$6,600.00, to cut the dangerous trees at the Lighthouse and allow the Supervisor to sign the contract, seconded by Sanger.

Roll Call: Passed Unam

10. Resolution to establish a new park board (Meihn)

Meihn; In the packet is a Resolution to approve the new Park Committee.

Manigold; Reads the Resolution into the record (Signed and approved Resolution is on file in the Clerk's Office).

Wahl; Requested corrections on the spelling of Manigold's name and requested clarification of the length of members serving on the Committee.

Meihn; Clarifies

Moved by Wahl to approve Peninsula Township creating Parks Committee without the first paragraph and the correct spelling of Manigold's name, seconded by Bickle.

Roll Call:

Passed Unam

11. Oral report from the advisory personnel committee regarding FLSA compliance

Meihn; Requested that before this item addressed, he wanted to outline changes to the OMA and the FIOA. These were both power point presentations with provided handouts, this was an update and training for the Board of Trustees. Meihn's presentation is available in the packet for full review.

Meihn; Reminds the Board that in December when previous Clerk Westphal was getting ready to vacate her seat, this Board had received a second complaint of bullying and inappropriate treatment. The Supervisor was given a copy of the report which was distributed to the Trustee's. A FOIA request was received from the newspaper which has been complied with but in that investigation the individual decided not to move forward with the complaint because the former Clerk decided to resign. A couple of issues were raised that are concerning and these things deal with complaints from Christina and Susan that they had not been properly compensated for time which was worked. An email was received from the former Clerk that she was following procedures that had been in place by the prior group. Those prior processes and procedures that were claimed to be followed were not verified by Meihn. Marge was also questioned by the former Clerk on time records kept and asked to provide those of which Marge believed that she did not have to provide as an exempt employee. Meihn outlines that if you have an hourly employee working more hours than being compensated for then there is a Department of Labor Fair Standards problem regardless of past practices or handbooks. Susan provided undisputed documentation of denied unpaid compensation to counsel Meihn in the amount of \$936.91, for times when she was not paid for missed lunch time. Meihn recommends to the Board that they approve compensation to Susan for these past wages. Christina provided undisputed documentation for time that she had worked through lunches and was not compensated which came to 207.71 hours at her rate of pay which was \$5,645.56. Communication was received from Mr. Rowe as related to these issues Meihn's understanding is he is aware of this issue also. This is being brought to the Board through Meihn's investigative process. No documentation has been discovered by the new Clerk to dispute these claims. Meihn has found no basis to dispute the claims of these hours. **Reads into the record;** 'When this initial was broached from me to the former Clerk in the email of December 5th the response was the payroll hours and practices that Christina and Susan refer to have been ongoing nightmare for the Clerk's office. The policy set was from the previous administration of Hoffman and Hamilton. Brenda and I did not create new policies and or practices. The new policy handbook that I have worked on for over a year address the many issues that were absent in the old handbook, I worked very hard to get the new handbook passed so we could be in compliance with FLSA (and then there are references to other people) that has helped me with that.' It doesn't matter what previous practices were you don't deduct pay

when people work through lunches and you don't refuse to pay them. The consequences are enormous they can be double penalties, twice the amount with attorney fees and a complete audit by the Department of Labor.

Bickle; Ask for clarification of Susan's hours worked.

Meihn; Clarifies, she had it as; 147 days worked she estimated 10 minutes or greater minutes each of those days that she was pulled from lunch to handle the public's business this is from May of 2017 to April 2018 and from April 2018 to April 9, 2018 she has 15 days.

Bickle; Clarifies that these amounts would get these employees caught up.

Meihn; This whole situation with Christina in making her an hourly employee when she was really an exempt employee goes away. Meihn explains the importance of maintaining time sheets for employees exempt and non-exempt.

Board discussion

Moved by Sanger for the Board to compensate Susan Peihl in the amount of \$936.91 for compensation for past unpaid and further to compensate Christina Deeren \$5,645.56 for past compensation unpaid, seconded by Bickle.

Roll Call:

Passed Unam

Meihn; Addressed another employee, Robin who had submitted time sheets and the time worked although worked was cut and red-lined through and she was not compensated but she had been cut and not paid for the time in the time sheets submitted to the former Clerk.

Moved by Bickle to support Mr. Meihn's dialog with Robin so that he can conduct an appropriate investigation of time and time that has been cut or monitored back against what was actually worked, seconded by Wahl.

Passed Unam

A. Discussion regarding exempt and non-exempt staff (Sanger, Meihn)

Meihn; Power point presentation which is available in the packet for full review, this was an outline of proper classification of employees.

B. Update on claims by employees regarding overtime (Sanger, Meihn)

Meihn; Power point presentation which is available in the packet for full review, this was an outline of exempt and non-exempt employees' compensation for overtime.

12. Oral report from advisory employee handbook committee

Meihn; Gave an update on the status of the employee handbook.

9. Citizen Comments

Monnie Peters, 1425 Neahtawanta Rd., Asked Mr. Meihn questions pertaining to the Open Meetings Act and the way the Planning Commission has been ran since she has been a member. Can a policy be created that all committee meetings be opened?

Meihn; Absolutely, best practice is every meeting regardless of title is served best by public involvement. In agreement with the best practices

Ann Griffiths, 14458 Bluff Rd., Traverse City, now that you have established the Park Commission a quarter of the year is gone and the Parks Commission has not yet begun the budget is coming up in March and there is an employee that she feels is not competent to be running around on her own making financial decisions basically unsupervised.

Manigold; This is a Township employee.

Griffiths; Looking for the Board to take over and the Board needs to get going.

10. Board Comments

Meihn; When the former Clerk was here and indicated she wanted to read into the minutes her letter that was provided to the Clerk (Chown), she had made a comment that the Clerk indicated that it wasn't posted in the newsletter because of comments or statements or my advice. As the Board knows I do not make decisions only give advice, but this comment was already made at the last meeting that she had attended, secondarily when newsletters were reviewed since 2013, you do not have reader comments of a pejorative nature by certain people against certain people. You have a newsletter that provides information and when you read the comments that say, 'Please know that I did my best to maintain a clear objective and informed view of the issues surrounding Town Board matters, in the end my professional stand on matters affecting you, have caused me to retire early from my post.' That is not informational, that is a defensive, pejorative comment that is designed to try to place blame or discord somewhere and since you don't allow those types of comments in your newsletters at least since 2013. Everyone could send in comments about others stating bad or indifferent things. The proper form was what was used prior. That was the advice given to the Clerk. Just wanted to clarify that this letter from the former Clerk was not denied to the public.

Manigold; Update on the Union contract with Gilstorff, which is signed and all good. School is getting items donated by the Library and requested that these items be stored in the basement. Susie Shipman representing the School Board requested that the Township be named in an emergency situation as a meeting place.

11. Adjournment

Move by Wahl to adjourn, seconded by Sanger.

Passed Unam

Adjournment time 9:55 p.m.