

PENINSULA TOWNSHIP PLANNING COMMISSION AGENDA Minutes
13235 Center Road
Traverse City, MI 49686

February 26, 2018 7:00 p.m.

1. Call to Order: By Alan Couture at 7 p.m.

2. Pledge

3. Roll Call: Present: Susan Shipman, Donna Hornberger, Alan Couture, Monnie Peters, Laura Serocki, Isaiah Wunsch

Excused: Marilyn Elliott, Township Planner Brian VanDenBrand

Also Present: Gordon Hayward, Assistant Planner; Christina Deeren, Director of Zoning

4. Approve Agenda:

Action-Motion: Hornberger made a motion to approve the agenda. Wunsch seconded.

Passed Unanimously

5. Brief Citizen Comments:

Cameron White – Thank you for your time tonight. I am hoping that this township would move forward with any sort of step that would bring Peninsula Township into compliance with the Michigan Marijuana Medical Facilities Act and section 205 specifically. That is House Bill 4209, the Michigan Marijuana Licensing Act. Thank you.

6. Conflict of Interest:

Hornberger – I used to be on the library board. It will not impact on my decision.

Peters - I'm a member of their friends group and I've given them money. It will not impact on my decision.

Shipman - I'm a member of their friends group. It will not impact on my decision.

Wunsch – My mother is on the library board. It will not impact on my decision.

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.

a. Reports and Announcements

Serocki – I would like to move the Planning Commission meeting minutes of 1/22/18 down to Business Item f.

Action-Motion: Motion made by Serocki to accept the Consent Agenda after moving the PC meeting minutes of 1/22/18 to item f of Business section. Wunsch seconded.

Passed Unanimously

b. Correspondence (as provided) – Peninsula Community Library Guidelines for Public Meeting Room.

c. Approval of Meeting Minutes

- i. Planning Commission Regular Meeting 1/22/18
- ii. Master Plan Committee: 12/5/17, 2/8/18
- iii. Zoning Ordinance Rewrite Committee: 1/9/18, 1/10/18, 1/24/18, 1/25/18, 1/29/18, 1/31/18, 2/7/18, 2/8/18
- iv. Joint Meeting Township Board/Planning Commission Working Committee: 1/23/18, 2/6/18

8. Reports and Updates:

a. Township Board - Wunsch: At the last Township Board Meeting we approved the Park Master Plan. It took a few meetings to get through some minor corrections. Now that we have that approved we will be eligible for the DNR natural resources trust fund grants. We approved the sewer and water plans for Vineyard Ridge. We have been holding weekly study sessions looking at other issues with the township and to educate ourselves through the other processes.

b. Zoning Board of Appeals - Serocki: ZBA did not meet.

c. Park Commission- Hayward: I have a related item from the Park Commission. We have applied for a TC Track Club Grant of \$25,000 for an ADA compliant trail.

d. Zoning Ordinance Rewrite Committee – Peters: We were going great guns and we thought we would be able to bring 2 articles to the board to discuss. But it needed some finishing work done by Brian, which didn't get done before he went on medical leave. So Laura and I discussed this last week. Laura, Alan, Gordon and I are going to meet again on Wednesday and see if we can't do what Brian was going to do. As we had told you before, what we want to do is bring a couple articles at a time to you. We are starting from the back instead of starting from the front and will begin with the administrative stuff and then we'll work on moving forward. So, we'll see how well we can do.

Couture: When we do get the final draft, the committee wants the board as a whole to evaluate it. We want to submit material to you well in advance of meetings.

9. Business:

a. Peninsula Township Library – Consider adoption of findings. –

Hayward: A draft of the findings of fact for the library building has been submitted to you and is in your packet. You'll see that all the specific items required under the ordinance for a special use permit to be applied for. I would ask for any questions for each of the sections. You'll also find a little

background at the beginning explaining how we got to this point. Then we go directly to the draft findings. I would like to take it section by section and the first section is on page 1, which is section 8.1.3 (1) General Standards. I would like to have you read through that and we'll discuss it if any issues come up that you feel are inadequate, not clear, additional work needs to be done on it, or it is satisfactory. Or we can go page by page if you'd prefer. Hearing no comments, let's go on to the next section.

Hayward: The next section is on page 3, Section 8.1.3 (3) Specific Requirements. These are more detailed, but again they are the same from the last time we discussed this with very minor changes that the applicants submitted. They have done a very admirable job of detailing the findings. We might want to go page by page starting on pg. 3. Are there any questions?

Serocki: I did have a question. Did the Fire Chief send a letter about that?

Hayward: I did talk to him and he said it meets all the standards. I do not have the formal letter from him, but we will have it before we go to the Township Board.

Couture: I have a question about the soil. It just says that the existing soil is primarily sand. So I am assuming there won't be any problem with the permit then?

Hayward: Recommendations are that no further actions are required under their environmental lead and arsenic investigation.

Couture: That's good to hear. It also says more trees are to be planted. Are there any specific numbers or types?

Hayward: I don't have a specific listing. They were submitted as a part of the application. So I don't know whether they were native varieties.

Peters: I remember that 2 meetings ago they had suggested beech and we brought up the beech bark disease that is now rampant on some lands on Old Mission Peninsula.

Shipman: Are those existing trees? There are both on the landscape plan.

Bob Vershaeve: (Project Engineer with Gosling Czubak Landscaping): The proposed landscaping includes both. Monnie is right about the beech disease. At the last meeting we revised and changed the species.

Couture: Any other comments on page 4? If not we'll move on to page 5 and 6. Any comments? I did not have any myself.

Hornberger: There was something about one of the electrical lines being too low. Has that been worked out? I missed the meeting last month so I didn't know if that had been discussed or not.

Couture: This is a clarification for the project engineer. Donna's talking about the power lines.

Bob Vershaeve: It's being talked about with Consumer's engineers. They have 2 possible solutions. It will be solved before construction.

Couture – Anything further on the findings? Gordon?

Hayward – I believe that there should be a motion on each of the 2 sections, section 8.1.3 (1) General Standards and then a motion on Section 8.1.3 (3) Specific Requirements have been met as drafted.

Action-Motion Peters moved to accept that the requirements of section 8.1.3 (1) General Standards have been met. Wunsch seconded the motion. No discussion. **Passed Unanimously**

Action-Motion Peters made a motion to accept the Specific Requirements of section 8.1.3 (3) having been met. Serocki seconded motion. No discussion. **Passed Unanimously**

Hayward: I think that the next step would be a motion for the board to approve the special use permit for the Community Library.

Serocki: I have a question. Should we put a condition on it about the power line being settled before building?

Hayward: I think what we'll do is wait for the applicants to submit the two documents: one from the fire chief and one from Consumers, and then we'll simply attach that to the recommendation to the Township Board rather than making that a condition. It makes it more complicated to meet conditions.

Action-Motion Wunsch made a motion that the Library Special Use Permit be approved. Seconded by Shipman. **Passed Unanimously**

Peters: Before we go off this subject, I would like to Thank Gordon for having gotten the drafts to us 10 days ago, so that we had time to read them. I know I sent in some corrections and I think that's why they looked as good as they did. So, Thank you, Gordon!

Couture: You took the words right out of my mouth Monnie. Very well done!

b. Year End Report - Discussion

Couture: Year End Report, who is leading that discussion?

Peters: We started in the Master Plan Working Committee by looking at what we had done over the last year and what we were going to do for the future. I put together that plus some other material and then Susie added a couple of pages. Brian originally put this on the agenda for this meeting. He very much wanted to write a page or two. So, instead of totally pulling it off the agenda, Gordon and I discussed last week that I would give a little report. Everyone just got an email copy of 2 drafts. Mine was as of 2/12/18, if you want to go back and look. Susie was 2/13. That was sort of a compilation of what we had done. Gordon and I felt that we should wait until Brian's back in time to get something done before the next meeting. Otherwise we'll put them together as a Year End Report.

Shipman: I asked Brian and he said he had an example of a Year End Report that would be a nice model. He sent that to me, which might help us.

Peters: OK, Susie, I'm drafting you to help.

c. Floodplain and wetlands public hearing

Couture opened the Public Hearing.

Floodplain and wetlands--Who is presenting that? I know Gordon and Monnie did a lot of work on this.

Deeren: We just made some corrections and changes to the wetland ordinance and are recommending some modifications to that. Also the floodplain and what is a floodplain. Everything that's been changed is highlighted on the sheet, so you can see the changes we are proposing to make in that ordinance. We have had a few issues with that ordinance and so this is a critical one to get changed quickly, if at all possible.

Serocki: Are we supposed to be looking at the draft of the Watershed's recommended changes? We don't have the highlighted copy.

- Clarification by many of a packet addition.

Hayward: This is scheduled as a public hearing so we can proceed with a discussion of the additions that are suggested by the Watershed Center and see whether or not you want to accept their proposal. If there are no changes then the second public hearing is not required and you can act on the modified version. I would suggest, if everyone has a copy, that you look at the side bar comments from the Watershed Center and see if you want to accept their recommended changes. I generally concur with them with one exception and that is the issue of how to identify the ordinary high water line. Their suggestion was that we not put a specific elevation above sea level in that. My recommendation is that there is an advantage to leaving that specific number in because it has a date attached to it. That is the flood elevation line as of the 1985 International Great Lakes data. So everyone knows what elevation we were looking at, at that time. If that elevation changes because of changes in the elevation of the oceans then we'll need to make changes in the future. But leaving it blank leaves a certain amount of uncertainty, which I'm uncomfortable with.

Peters: Should we actually have an open mic and see if there are comments from anyone from the audience?

Hayward: I was thinking it best to first have a discussion amongst yourselves on how you want to deal with the additional items that the Watershed Center is addressing.

Deeren: Could I suggest that we do each of the Watershed comments separately, just run through them. I agree with you on 2 of them, but I'm not sure I'm in agreement with the Watershed. Some of them won't make a difference.

Hayward: The others have probably not had an opportunity to review the Watershed comments unless they have gotten on the website. Either way is fine. I agree that you should first talk about what they are and deal with the Watershed comments later and get information from the audience.

Deeren: Under the 1st one, Wetlands # 3, when we talked about allowing the boardwalks we were not sure of the best way to describe them. We just didn't want any postholes or piers in the wetlands. So I think what they suggested, "using open pile construction to avoid placement of fill and minimize wetland resources" is better than what we had. I agree with that.

Peters: I agree with that also. So that's the draft that came in the packet I got this morning. Then, the one that we got this evening says, "shall be laid on the surface of the ground with no post holes or piers". That is the old one. So you are saying that what you read would replace that.

Deeren: Right!

Peters: What the Watershed Center is using I think is the same version, the correct one.

Deeren: Right. This is the one that is on the website which everyone was referred to when they saw the publication. So, they have the most up-to-date version.

Peters: I would agree with Gordon's comment about, in B2, defining a specific number instead of using "3 feet above the ordinary high."

Deeren: So you want to see that elevation of 583.5 ft. added back in there.

Hayward: With the notation of I.G.L.D. (International Great Lakes Datum) 1985.

Peters: Going back to boardwalks in wetland area, number 3 back on the first page. They also have "boardwalks 3 feet or less shall be *allowed*" rather than *permitted*. Is there an issue of a permit? Using *allowed* we're just saying, this is something you can do so you can traverse if you have a wetland area. So, it would be changing *permitted* to *allowed*.

Serocki: How do you feel about that Christina?

Deeren: I think you should have a permit to build it. The reasons being a) you want to make sure postholes are not being put into the ground and b) there is value attached to a permit and the

assessor will follow that trail line. If a permit is not required you might have people building boardwalks 6 feet wide, with postholes. So I think it is something that needs to be permitted.

Peters: Good, thank you! Good point. So we would not use *allowed*?

Deeren: Yes, I would take out the *allowed* and make it *permitted*.

Couture: We would do the same thing on section 3, same rationale.

Deeren: Yes, we would have to remove that from *permitted*.

Serocki: I think people would have to come in to get a permit, for those Permitted Uses. Because then they have required conditions for permitted uses. Now, I didn't really understand 4b, why they were putting Zoning Administrator in there. ~~McKinon~~ McKenna, our consultant, changed all of these "Zoning Administrators" to "Planning Commission." This was all approved by our attorney. If there is a reason why (b) should be Zoning Administrator and (c) should be Planning Commission I'd like to hear the reasoning. So, (a) and (c) would be Planning Commission and (b) should be Zoning Administrator, I was just curious to why that was made. I didn't see a comment.

Peters: That did not make sense to me either.

Deeren: Maybe they did that for the simple fact that if maybe somebody comes in with an application and they don't know where that elevation is, obviously they would bring that permit information to the Zoning Administrator. The Zoning Administrator at that point in time makes the determination of needing to know what that flood elevation is, instead of bringing it before the Planning Commission as an agenda item.

Serocki: Would this work better for you?

Deeren: Yes, I think so. Because if there is an issue and it is declined, then it comes before PC or ZBA, and I would have it come before the Planning Commission.

Serocki: So look at 4(c), should it also be changed to Zoning Administrator?

Deeren: I think so. I think at the time, if there is any denial, than it comes before the PC and you have the right to request additional studies or reports needed in order to make a decision. But, until that point, when you are in the information stage, you don't want to have to keep referring them back to the PC or ZBA for information.

Peters: Then #6, they had a vegetative strip required, they had said width 35 feet *inland* and we said just *inward*. Is there anything about 35 feet inland from the beach?

Hayward: I think there probably is. We would probably want to consider something like that, but for now we want to follow the ordinance we have except for the specific guidance today that we have on this amendment. I suspect that the language may be modified as we rewrite the final documents. We felt we should have something going forward that removes some past problems. I agree that we need to continue to look at that language. That is part of the shoreline overlay.

Peters: The question is: They are adding a specific dimension and changing our description of *inward* to *inland*. I don't know if there is a real difference.

Hayward: They are suggesting that it be consistent with section 7.4.4 existing language. It is for you to decide if you want to keep it like it is or use their language. It basically means the same thing.

Serocki: 7.4.4 implies removing things from the beach.

Hayward: That's a reference that they are referring to.

Deeren: It may just be a bit clearer saying, *inland* instead of *inward*.

Serocki: When you were working on the shoreline overlay, did you change the vegetative cover distance? Or is it still 35 feet?

Peters: No, it wasn't changed. Yes, it is still 35 feet. Do we want to have the 35 feet here also?

Hayward: I think so.

Couture: It is consistent with 7.4.4 ordinance.

Peters: Then in # 7, as our committee was discussing it, we were clear that there should be no retaining walls or seawalls in any floodplain area. Period! We had taken all of that out and I think that is the position the committee is recommending the full Planning Commission adopt.

Serocki: I believe you can request from the ZBA to build a seawall, just not in a floodplain area. You can get a seawall or retaining wall if you need it. But not in a floodplain area.

Peters: I assume that even if it says that, folks could go to ZBA and argue it. However they may not win.

Hayward: Seawalls are certainly the least desirable to hardening the shoreline. Everything else should be tried first. The current language says: "Seawalls may be allowed by the Zoning Administrator necessary for existing structures." So to come in and ask anybody, including the Zoning Board of Appeals, for approval to put a seawall where there are no current structures, or if there is no place within the floodplain, the ZBA is not going to allow somebody to put a seawall at the ordinary high water mark if there is a floodplain. That's what we are attempting to get at here.

Deeren: Are you recommending that we not add the seawall language?

Hayward: I believe the language should be strong so that the Board of Appeals shall not grant variances to within a 60 foot front yard setback, particularly if it is in a wetland or floodplain.

Couture: No means no!

Hayward: There are other options and this would require ZBA to explore all other reasonable and economically viable options before they would deal with a seawall, because it has such great adverse impact on adjacent property.

Couture: Anything else with the draft ordinance?

Shipman: We did talk about the 1st comment where she says, recommending review of MCL 324.20207-30310 and so I wanted to ask if we would have a chance to look at that.

Deeren: Until we look at the new zoning ordinance, I think that this amendment is something we should look at, at a later date. This is something the ZBA would like to put into the zoning ordinance if possible.

Shipman: It's not a red flag, just wanting to be consistent.

Action-Motion: Serocki made motion to recommend the Floodplain/Wetland restrictions and Floodplain/Wetland controls to the Town Board. The one that is current is the one dated 2/8/18 with the Watershed comments either deleted or left in.

Hayward: My suggestion is, rather than recommending it to the Township Board, that at this stage you recommend that the current language, subject to the public hearing tonight, includes exchanges. Hold the public hearing and then make the motion relative to the comments.

Serocki: I withdraw the current motion.

Action-Motion: Peters made a motion to recommend to have a public hearing to include the corrections that we have just added. Shipman seconded. **Passed Unanimously**

Couture: Thanks everybody. We now open the public hearing for comment on the Flood Plain and Wetland Restrictions draft including changes. Since no comments are forthcoming we will now close the public hearing at this time and resume our business.

Action-motion: Serocki moves to recommend approval of 6.9.3.7 Flood Plain and Wetland Restrictions and Section 7.4.7 Flood Plain and Wetland Controls to the Township Board with the changes made at the Planning Commission meeting tonight, 2/26/18. Supported by Hornberger. No further discussion.

Passed Unanimously

d. Escrow discussion - set public hearing

Hayward: There has been a lot of discussion with the Township Board in dealing with a specific issue that comes up in establishing the additional escrow monies required for specific projects. The change being proposed is that the Director of Planning or the Zoning Administrator be allowed to estimate the addition escrow fee required to complete the project rather than having it come to the Planning Commission or ZBA as the case may be. The Township Board feels that it is just a delay for getting the funds into the accounts necessary to move projects forward. Isaiah can make comment if I have that incorrect, but generally it is to speed up that process. It is an estimate for the funds in that trust and agency accounts. All invoices have to be charged against that and any remaining monies, go back to the applicants. We are essentially using the applicant's money to handle these reviews. The fees specifically are for experts to review and/or add additional information for a special use permit. It would be like Planners, Attorneys, Engineers, those types of professionals necessary to comment on a project.

Couture: Thanks, Gordon, any discussion by the Board? I know a lot of work went into this draft and it seems like a good idea to me to use developer's money and not ours.

Wunsch: It seems like a good idea to give staff the ability to collect escrow funds ahead of time rather than trying to collect after the money has been spent. That defeats the idea of an escrow.

Couture: If there isn't any additional discussion, I ask for a motion to schedule a public hearing.

Action-motion: Wunsch moved to schedule a public hearing of the escrow ordinance at our next meeting on March 19th 2018. Supported by Shipman. No additional discussion. **Passed Unanimously**

e. Continued discussion of Junk Ordinance and Short Term Rentals • Wunsch update

Couture: Continued discussion of Junk Ordinance and Short Term Rentals. Isaiah, is that you?

Wunsch: I don't think we have any huge updates. We are getting close to wrapping up the discussion of the Junk Ordinance. We will hold our final meeting on the Junk Ordinance tomorrow, 2/27, and we'll have language ready for the Town Board to review. Short Term Rentals is an issue which is difficult to come up with a long term solution. It is going to take a while longer.

Couture: I know you and the committees are working hard on it through reading the notes. I know it is a difficult topic. We appreciate your hard work. Questions or comments for Isaiah? If not, thank you, Isaiah. Let's move on to f, agenda amendment.

f. Agenda amendment - Approval of Minutes:

Serocki: Under number 3 it should say: Roll Call: Present,.... , Excused: Donna Hornberger (as she was not here).

Under 6, Donna should also be removed from the conflict of interest.

Page 5, b. Public Hearing, the first paragraph, Wetland and Floodplain controls, Brian VanDenBrand made that statement and his name is not on there.

Peters: Page 5, paragraph that begins, Wetland and Floodplain controls ,.....In speaking with Serocki (Laura's name is misspelled. Should be Serocki) and Peters,.....

On page 3, Nancy Davy's name is misspelled at the bottom of the page.

Further down pg. 3 under Vicki Shurly's comments: I was talked into this job two years ago,.....eliminate the words two years ago.

Page 1 at the top, under Also Present: Gordie Hayward should be changed to Gordon Hayward.

Number 6, Conflict of interest, Members of the Library Friends Group,...thus identifying the subject of the conflict of interest.

Shipman: Page 3 at the bottom, Vicki Shurly's second comment, restricted and free of charge to (should be 501 (c)(3) not 503 (c)s).

Couture: Any other suggested changes? If not, I'll entertain a motion to approve the January 22nd minutes as amended.

Action-motion: Serocki moved to approve the minutes from the January 22 meeting as amended.

Supported by Shipman.

Passed Unanimously

10. Citizen Comments:

No comments made.

11. Board Comments:

Deeren: I have been working with Cindy Ruzak and we have come up with the idea of a Country Inn ordinance. We have written some language and will distribute it to everyone. I would like to bring it to the Planning Commission meeting on March 19th to look at and ask for a review of it. I think it important that we look at the ordinances we have and the people who are complying with those ordinances. What we have done is break it apart and create something better and useful with larger parcels of property to be able to utilize it in a sufficient way. If you see it in your packet you know it's from me. I hope to get some feedback on it and then schedule it for a public hearing in the near future.

Couture: Are there any other comments? If not, I thank everyone for their hard work and for showing up tonight. Thank you to our new recording secretary, Deb.

Action-Motion: Peters moved to adjourn the meeting. Serocki seconded.

Passed Unanimously

Meeting adjourned at 8:00 p.m.

Peninsula Township Planning Commission
February 26, 2018, 7:00 pm
Deb Larimer, Recording Secretary
Donna Hornberger, Editor, Final Corrections 3-21-2018 @7:40am
Deb Larimer
Recording Secretary