

**Peninsula Town Board
Meeting
February 27, 2018,
7:00 pm
Regular Meeting Minutes**

1. Call to Order by Manigold at 7 p.m.

2. Pledge

3. Roll Call Present: **Manigold, Westphal, Bickle, Achorn, Wunsch, Sanders, Wahl.**

Also present: Gordon Hayward, Assistant to the Planning and Zoning. Christina Deeren, Director of Zoning and Greg Miehn, Township Attorney, Fred Gilstorff, Fire Chief and staff.

4. Approve Agenda as Amended

Manigold stated that item number 4 under Business is a public hearing and apologized that it did not show up that way on the agenda but was posted on the website as a public hearing.

Westphal: Stated that a letter was received and put under correspondence from Consumers Energy regarding cutting trees along the corridor. **Manigold** stated that it was put on the website and stated Consumers is upgrading their lines which has been a two year process. It was in the newsletter. They are just leaving TC and should see them in the next week. They will be working up to Mathieson Road and there will be some tree cutting and adding new structures and eventually taking the old poles out and replacing them. **Westphal:** The tree cutting will include removing trees and brush within the right-of-way.

Moved by **Sanders** and supported by **Wunsch** to approve the agenda.

Passed Unam

5. Brief Citizen Comments-for items not on the agenda None

6. Conflict of Interest: Manigold and Wunsch expressed conflict of interest with agenda item number 5 under Business Request for a small wine maker's license.

7. Consent Agenda:

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

1. Meeting Minutes Approval – December 12, 2017 7 pm Regular TB Mtg; January 10, 2018 Special TB Study Session; January 24, 2018 TB Study Session; January 31, 2018 TB Study Session; February 13, 2018 7 pm Regular TB Mtg; February 21, 2018 TB Study Session
2. Reports and Announcements (as provided in packet)
 - A. Officers – Clerk, Supervisor, Treasurer
 - B. Departmental – Fire Department (Gilstorff). Planning Commission (see Business Item #1), Zoning Board of Appeals, Attorney, Engineer, Library Park Commission, and Township Deputy (recommended approval).
3. Correspondence (as provided in packet)
4. Edit list of Invoices (recommend approval)
5. Approve Resolution for Waiver of Penalty for Untimely Filed Property Transfer Affidavits (recommended by Assessor)
6. Approve Request for one additional day with BS&A personnel to complete training

- involving an accounting setup for payroll transition.
7. Approve Performance Resolution for Governmental Agencies for the Bayshore Marathon Race on May 26, 2018.
 8. Approve Edited Resolution in Support of Peninsula Township Recreation Plan

Sanders had a question with one of the invoices. **Bickle** stated that he was going to make a recommendation to approve them subject to further review as the Treasurer's Office has been busy with the end of year taxes. The Deputy Treasurer and Treasurer request that the Board consider a request of conditional approval upon further review of the edit list. **Sanders** stated she was okay with that just noted that on the three she has questions regarding where in a total of \$539.00 but was okay with a conditional approval.

8. Business;

1. Recognition Awards for past Fire Chiefs presented by Gilstorff

Gilstorff: Good evening Board, I am very humbled to be here tonight to give recognition of two individuals that were previous Chiefs of the Fire Department one being Chief Vander Meer and Chief Rittenhouse. Gilstorff gave a history of the department and dedication of each of these people that gave great dedication of 50 years combined between the two of them. Presented plaque to Vander Meer and accepted plaque for Rittenhouse who had a conflict in timing and was unable to be present.

2. Approve Request for Dress Uniforms for the Fire Department (Gilstorff) Presented what the new uniforms would look like and the importance of having the uniforms for the Fire Department Officers the cost is \$9,000.00 for the new uniforms.

Moved by **Sanders** to approve the request for Dress Uniforms for the Fire Department, with a second by **Westphal** – Roll Call vote **Passed Unam**

Manigold: We do have Chief Teller from the City Fire Department in the audience this evening and thanked him for coming out. Wanted to thank the City for being available to the Township.

Closed regular meeting and opened public hearing for item number 3.

3. Public hearing on the Bayshore Marathon and Endurance Evolution Events

Deeren presented Large Event Permit 2018-01 for Endurance Evolution and turned floor over to Tricia Davies that is in charge of the event to answer any questions by the Board or public. The event will be held on Sunday, August 19, 2018.

Davies: This is the 10th Annual Endurance Evolution Race. Gave route of event and details of swimming route, biking route and foot race route. No changes from previous year's courses.

Deeren presented Large Event Permit 2018-02 for Bayshore Marathon and turned floor over to Daniel Sideman that is in charge of the event to answer any questions by the Board or public.

Sideman: This is 36th Annual Bayshore Marathon race. Gave route of event and details of the race. The event will be held on Saturday, May 26, 2018. No changes to the course. 10K, ½ marathon and full marathon races.

Manigold closed public hearing and returned back to the Board for discussion and a motion.

Moved by **Wahl** to approve both Large Event Permits 2018-01 Endurance Evolution and 2018-02

Bayshore Marathon Race, seconded by **Sanders**. - Roll Call Vote

Passed Unam

4. Approve Resolution to Amend Section 4.2.1 of the Peninsula Township Zoning Ordinance Involving Enforcement

Manigold opened public hearing for the Resolution to Amend Section 4.2.1 of the Zoning Ordinance.

Hayward presented resolution of 4.2.1 this is a short and brief amendment to this ordinance relating to enforcement action. The purpose of this amendment is to shorten the time that it takes to notify someone of a violation to this ordinance from 15 days to 7 days.

Dave Sanger, Code Enforcement Officer for Peninsula Township: This is a move in the right direction this shortens the time for someone that has a violation to come into compliance from 15 days to 7 days from the time of the offense. Explained to the Board some of the violations that have been dealt with over the past year and the seriousness of getting these violations brought into voluntary compliance.

Manigold closed public hearing and opened up regular meeting for discussion and a motion from the Board.

Westphal: questioned Sanger as to how seven days was picked. **Sanger;** Would prefer to have zero time but sensed in some of the meetings that there was a concern that the Township may be too aggressive in terms of enforcement, but thinks this is step in the right direction to move the time from 15 days to 7 days. Written notification is sent to the person in violation and gives people time to respond.

Monnie Peters: I am on the Zoning Ordinance Re-write Committee clarifies that it is 7 days from the time of the mailing so if you have to serve someone with a certified letter and then come back to you then you have already used 5 days because of the notice requirement. The previous ordinance was 15 days.

Moved by **Westphal** to approve the Resolution Section 4.2.1 of the Zoning Ordinance, second by **Bickle**. - Roll Call Vote

Passed Unam

5. Consider Approval for a Small Wine Maker License pursuant to the Michigan Liquor Control Commission form LLC-106 for 1855 Project LLC

Manigold referred next this item to Attorney as they will take this item off of the agenda if Greg is not ready to address this item.

Miehn: I am ready to address this issue and asked Trustee Westphal if she would voice some of the objections to that she had.

Manigold stated that he and Trustee Wunsch both have a conflict with this item and requested a motion to remove himself and Trustee Wunsch from the Board and the discussion.

Moved by **Sanders** to remove Supervisor Manigold and Trustee Wunsch from the Board, seconded by **Bickle**.

Passed Unam

Westphal: Go to the packet under Business Item No. 5, I would like to read the letter from Doug

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Rigan letter addressed to the Township Planner, Brian VanDenBrand for approval of a Small Wine Makers License. (Letter dated January 31, 2018 read into the record by Westphal).

Westphal; Concerned that we have an individual that is seeking approval to go forward to the Liquor Control Commission for approval of a Small Wine Makers License. Rigan owns approximately 10.78 acres of property on the Peninsula. He does have grapes which are managed by Trustee Wunsch. **Westphal** then asked Trustee **Wunsch** if Rigan also had trees planted.

Miehn interrupted to request that Westphal not address **Wunsch** who has recused himself from this item per Wunsch's conflict of interest.

Westphal; Continues that her understanding is that Rigan has part of his property in grapes. The real problem that she sees is that Rigan is coming to the Township for a Use by Right which would allow him to use his property for production in Agriculture. The problem is that for him to get a small wine maker's license, he has to have approval from this Board before the Liquor Control Commission will issue the license. What he does not need approval from the Township Board or any other Agency in the State of Michigan, based upon the information provided on the Liquor Control Commission website for manufactures of alcoholic beverages, is a wine tasting room, brewery tasting room or a cider tasting room. In other words, Mr. Rigan would not have to have permission from the Board to have a wine tasting room, brewery tasting room or a cider tasting room. Those things are important to us in the township because anyone who has a 5 acre parcel of land on the Peninsula which is zoned Agricultural could basically see approval from the Board for a small winery, brewery or cider manufacturer license. In doing so then all of the work that has been done in the PDR Program to allow us to protect our agricultural land and rural landscape from small businesses along Center Road will erode and dissolve before our eyes. There are at least eleven wineries out here if not twelve that have made major investments to meet the 40-50 acre parcel requirements to have either a winery or a chateau. They have made the investment in equipment to produce wine on their property so they might sell under the requirements by the Township with 85% appellation of their products coming from grapes grown on the Peninsula in order to have a winery out here. Now we are saying that you can go into partnership with someone either on the Peninsula or off of the Township to manufacture wine. Then you can take the product and go anywhere you want to sell this product. I feel that is going to create a whole bunch of problems for us out here as a Township. Lastly, Doug Rigan has identified that he will sell his finished wine at the Traverse City Farmers Market. The Traverse City Farmers Market only allows two vendors to do this on Saturdays. Right now one of those spots is already filled and in speaking with Nick Viox that manages the farm market he stated that there are already people applying for that second slot. So my question is what if we have a situation as we did with one of our wineries out here that went to another winery and had them make their wine. Then the other winery decided that they needed to have more production more for themselves and didn't have the capacity to keep producing for the other entity. So this individual went off the Peninsula and into town and is now manufacturing their wine in town at that particular location which was never the intent of this Townships winery ordinance as I read it. What happens to this individual if his partnership with Chateau Chantel undergoes the same type of situation where they may reach a capacity where they are unable to handle this again? Then we will see another situation where they can't find someone to manufacture their wine on the Peninsula among the wineries that are legitimately established and have the equipment to do this type of manufacturing from a raw product to a finished product. They will then again go off the Peninsula which is a questionable violation of our winery ordinance. What if Mr. Rigan does not get to the downtown farmers market and is precluded from that. Is he going to create a portable party store and circuit his product around to the other farm markets in the area selling his product? Is that legal and is that what the Liquor Control Commission is really hoping to achieve here to have all of this alcohol moving around in vehicles with very little oversight and control. I think that these are really big issues but the most critical issue is anyone who has 5 acres of agricultural land out here has the right to do this if we set the precedence for this type of activity. This is really serious. This is not something that we should take lightly, and that is why I am encouraging the Board to remove this item until we have looked at the long term implications of this

type of approval. It clearly states in the Michigan Department of Licensing and Regulatory Affairs Liquor Control Commission that Townships cannot prevent wine tasting, beer tasting or cider tasting. They need approval from the Township to become a small wine maker but immediately below that it states that they do not require Township approval from the local authority to do wine tasting, beer tasting or cider tasting. I am concerned, and I think that the rest of the community should be concerned with this as well. That is my position.

Miehn: The ultimate outcome today is that I do want you to remove this item so that further discussion can take place next month. You are correct that this does have to have Board approval for part one of the small wine maker's license requirements. We also need to have some specific questions answered as to the land and what makes part of that process. In terms of the mobile party store analogy that is a concern as always. I would ask that we move this to the April Township Board meeting so that by that time I will be able to provide you with a detailed memo on this and then what is called the decision tree which will make it easier for you. I do echo your concerns regarding this and I think your concerns are well noted. I will also echo the concerns of the overall policy and to the people that have placed a large amount of money into the community for the development of the same businesses. We will be able to go through this at the April meeting with a detailed outlined memo prior to that so that you are well prepared for that meeting.

Bickle: Trustee Westphal outlined what are good thought starters and I think that we need to have a chance to do our homework with regards to issues or the potential for issues. I appreciate legal counsel's advice on waiting until April to address this further.

Achorn: Expressed concerns of confusion with what specifically is a small wine maker and what are the requirements and what are the positives in being a small wine maker. Why do you have to be small wine makers in order to grow grapes and sell them or have someone else make them into wine. Does not understand the entire process and feels that she needs more education in this area.

Miehn: The overall issue is that there needs to be an ordinance of making and selling wine so that there is a constancy within the ordinance. Suggest that the Board forms a committee with people of interest to develop an umbrella ordinance that deals with this specific issue. This will benefit everyone as it will create an even playing field regarding rules. Instead of going through different SUP's and amendments to SUP's. We will be ready in April to handle this specific request but we also need to move fairly quickly on developing this committee to begin putting together a process.

Sanders: Requested that the Board starts the discussion at one of the study sessions.

Westphal: I would like to share with the Board members the literature that I found on the Michigan Liquor Control Commission (MLCC) website, entitled "Manufacturers & Wholesale License Application Process (For applicants located in Michigan only)". She read that portion of the second page for the small wine maker application. (quote)

"The following Manufacturer License/permit/location applications require the approval(s) noted below:

New Licenses: Approval from local units of government required under MCL 436.1501

Small Wine Maker/Wine Maker	Manufacturer of Bandy/Spirits/Mixed Spirit Drink
Brewer/Micro Brewer	Small Distiller

New Wine Tasting Room, Brandy Tasting Room and Spirit Tasting Room locations do not require approval from the local unit of government" (unquote)

Miehn: Read (Michigan Department of Licensing and Regulatory Affairs (LARA)), which is the Michigan site in regard to this same issue of a small wine maker's license. This is an important

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issue.

Westphal: request a motion to remove item number 5 from the Agenda.

Moved by Bickle to remove the Consideration Approval for a Small Wine Maker License pursuant to the Michigan Liquor Control Commission form LLC-106 for 155 Project LLC to table per advice of counsel to be considered at the April 2018 Township Board meeting, seconded by Sanders. - Roll Call Vote: (Sanders, Wahl, Westphal, Achorn and Bickle). **Passed Unam**

Motion by Sanders to have Wunsch and Manigold come back into session with the Board, seconded by Bickle. **Passed Unam**

9. Citizen Comments:

Monnie Peters, 1425 Nehtawanta Road, Traverse City, MI 49686: Stated that when the public hearing was open for the races, it was asked if anyone had any questions instead of anyone having comments. Monnie is in support of the races. The last agenda item she sees this coming back to the Planning Commission and expressed concerns of being behind because of the lack of time with the Planner. The re-write committee has put off dealing with the whole winery issues. We need a lot of help in the planning area and know that maybe they are beginning to get some but wants the Board to recognize that they have the re-write of the zoning and they have dealing with all of the short amendments. They have been meeting once or twice a week to get these things accomplished. They do need enough staff time. Christina is now sort of becoming a little of both planning and zoning. Do we as a Township have enough planning staff time so that they can continue to move forward? What Greg is suggesting is good but it is a monster of a project.

Jean Snow, 10605 Bluff Road, Traverse City, MI 49686; Just wanted to add to the awards and tributes to the Fire Chief Vander Meer. That Pam Vander Meer as an EMT with the Fire Department for many years even while raising her children was always there to recognize the families.

Dave Edmondson, 12414 Center Road, Traverse City, MI 49686: I would like to address the Board on the small wine maker license approval. I guess Gordon would be the best one to ask but has this been done before with other people that have a small wine maker licenses?

Hayward: The Liquor Control Commission does require that the Township approve the small wine maker license.

Dave Edmondson: Have we ever approved these before for the other wineries?

Manigold: Yes, we do. We have to approve all of the small wine makers and the liquor license for the restaurants. Believes that there are two beer and wine licenses for the grocery store and all have to have Town Board approval. It should be in the minutes.

Edmondson: I have never seen this procedure played through before. Thinks the board should be cautious of this as they have spent an enormous amount of time protecting the farm land and feels the ordinance with the 40-50 acre requirements is very reasonable. It shows commitment. We have one perfect example here on the Peninsula today that didn't follow that process and is now out of control. The board does not seem to be able to get it under control either. In this particular situation they are running over the Township Park and using it for their own parking and stuff like that. Feels that the Board needs to be really careful when issuing those licenses and make sure that the commitment is there. We have the 40-50 acre ordinance which is good for the user and for the community. This will hopefully keep a cap on the amount of these small winery requests for approval.

Chief Fred Teller, Traverse City Fire Department: Thank you Supervisor Manigold for the kind

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words at the beginning of the meeting. We fully support the Peninsula and will help in any way we can without question. Just wanted to go on record to state that Chief Vander Meer helped me out when I was a young Chief and he set the bar for the Fire Department and for the department cooperation and training in working together. There were times when I was able to bring personal onto the Peninsula for training when condemned houses were being burnt down as we are not able to do this in the City. He has known Chief Gilstroff for a number of years, and he comes from a department and city like Traverse City. Looking forward to continuing to work together.

10. Board Comments:

Manigold; Announced that the Planner, Brian VanDenBrand has resigned. Will be discussing what will happen. Gordon is working with the Traverse City Track club / Bayshore Marathon for a \$25,000.00 matching grant to put in a trail at the new park. Hoping to go to the trust fund for a 75/25 match. Looking at putting in an 1800 foot handicap accessible trail from Devils Dive connecting to the existing walking trail.

Wunsch; Update from the Junk and Blight Ordinance and short-term rental committee. The Junk Ordinance will be ready to present to the Board at the next regularly scheduled meeting. Looking at using an annual permit instead of an ordinance to allow short-term rentals.

Manigold requested a motion to adjourn.

Moved by Sanders and seconded by Wunsch to adjourn.

Passed Unam

Adjournment at 8:20 pm