

**PENINSULA TOWNSHIP  
TOWN BOARD MEETING MINUTES**  
13235 Center Road Traverse City, MI 49686  
March 28, 2017 7:00 pm Township Hall

Meeting called to order at 7:00 pm by Manigold.

Present: **Manigold, Westphal, Achorn, Wahl, Wunsch, Bickle**

Absent: **Sanders**

Also present: Nicole Essad, Gordon Hayward, Brian VanDenBrand, and Rachel Mavis (recording secretary)

Addition to agenda: under business, first item will be a resolution regarding Bluff Road project.

**Approve Agenda**

Motion by Westphal / Wunsch to approve agenda as amended. Motion passed unanimously.

**Brief Citizen Comments - for items not on the Agenda**

Nancy Kahn: She is one of the plaintiffs in the lawsuit against Peninsula Township. Mediation is tomorrow. When the board was elected, they made promises to voters regarding transparency and integrity. She wanted to remind the board of that and of the oath they took - they have a responsibility to learn about and understand issues. She gave out two handouts - one is a survey of Mr. Correia's property. Next set shows that where Lake Michigan was labeled on the official survey, then the words are removed and in their place is an extension of land into Bowers Harbor. (Photographs also attached). Question to board: is this the township you promised the voters? Is this the integrity / transparency you promised the voters? She hopes that board will take time to understand issues in this case, because they're important to the township.

**Conflict of Interest**

none

**Consent Agenda**

1. Meeting Minutes Approval - March 14, 2017, and March 22, 2017
2. Reports and Announcements (as provided in packet)
  - A. Officers - Clerk, Supervisor, Treasurer
  - B. Departmental - Assessor, Planner, Attorney, Engineer, Library, Park Commission, and Township Deputy (recommend approval)
3. Correspondence (as provided in packet)
4. Edit list of invoices (recommend approval)
5. Special Assessment Bonds, Series 2017, relating to Special Assessment Districts, Resolution 2017-03-22#1 (recommend approval). Clarification from Ackerley regarding resolution: On page 9 of the Resolution, #24 - Due to the fact that some of the SADs had private roads and public roads, they had to re-tailor the bonds to reflect taxable status and tax exempt status.

Motion to approve consent agenda with resolution as amended by Wunsch / Wahl. Roll call. Manigold - yes, Westphal - yes, Achorn - yes, Wahl - yes, Wunsch - yes, Bickle - yes. Motion passed unanimously.

## **Business**

### **1. Resolution regarding Bluff Road improvements by the County Road Commission**

This resolution is to ask the Road Commission to postpone tree removal until the township and Road Commission staff can meet and can address the trees that will be removed before they are removed. Bluff Rd. is a unique road and the goal is to protect the steep slopes and the character.

Motion by Westphal / Bickle to approve resolution.

Achorn: Sat in audience last year during Peninsula Drive follow-up regarding tree cutting. It was agreed that township and Road Commission would work together on the Bluff Rd. project to avoid some of the issues that came up after Peninsula Drive trees were removed.

Roll call. Manigold - yes, Westphal - yes, Bickle - yes, Achorn - yes, Wahl - yes, Wunsch - yes. Motion passed unanimously.

### **2. Public Hearing for the Traverse City Track Club Bayshore Marathon, Half Marathon and 10K Race**

Large event permit was turned in. The event will be from 7:15-1:15. No changes in route.

Regular meeting closed at 7:17 pm and public hearing opened.

Monnie Peters - 1425 Neahwanta Rd.: She has shared the past 4-5 years that this event shows off the peninsula well. Supports it and loves it. Thinks this process of approval should be done in December, not March - this seems late if any changes need to be made.

Jim Floraday - 13617 Bluff Rd. - Runners go right in front of his house. It's a professional event, they clean up immediately afterwards, and is one of the most impressive large scale events. He would invite people to watch it from his own front yard. Amazing event.

Public hearing closed at 7:19 pm and regular meeting opened.

Motion by Westphal / Wunsch to approve. Motion passed unanimously.

### **3. Public Hearing for the Fire Department Millage Request, FY2017-2018**

Bickle: Budget shows what they're currently operating with, with the understanding that once they hire a fire chief, they may need more. At that point they will reassess the budget and needs for fire department (also see if grants are available).

Regular meeting closed at 7:22 pm and public hearing opened.

Nancy Heller - 3091 Bluewater Rd.: Peninsula township's interim fire chief has been here 1 year, but hasn't been paid chief wages. Some compensation should be made.

Public hearing closed at 7:23 pm, regular meeting opened.

Motion by Bickle / Wunsch to approve. Roll call. Manigold - yes, Westphal - yes, Achorn - yes, Wahl - yes, Wunsch - yes, Bickle - yes. Motion passed unanimously.

4. Adoption of General Fund Budget, Fire Department Budget, Special Funds Budget, and appropriate resolutions

1. Resolution 2017-03-28#2 to adopt the General Fund Budget for fiscal year 2017-2018 at the department level and to appropriate spending the budgeted money
2. Resolution 2017-03-28#3 to adopt the Fire Department Budget for fiscal year 2017-2018 at the department level and to appropriate spending the budgeted money
3. Resolution 2017-03-28#4 to set the 2017-2018 millage for the Fire Department at 1.4 mil.
4. Resolution 2017-03-28#5 to adopt the Special Fund budget for fiscal year 2017-2018 at the department level and to appropriate spending the budgeted money
5. Resolution 2017-03-28#6 authorizing the Clerk and Treasurer to pay recurring bills to avoid late charges and/or finance charges, and authorizing the Supervisor to make budget adjustments and authorize bills up to \$1,000.00 if necessary.
6. Resolution 2017-03-28#7 authorizing the Treasurer to utilize financial institutions of his choice as provided by law.
7. Resolution 2017-03-28#8 authorizing the Treasurer's Office to access On-Line Banking through Traverse City State Bank and Chemical Bank.
8. Resolution 2017-03-28#9 approving the Fiscal Year 2017/2018 Calendar.

Manigold: These are the resolutions that are done every year.

Regular meeting closed at 7:24 pm and public hearing opened.

Bickle: A copy of the budget is available in the back. The budget follows the basic structure of last year's budget (fiscal year is April 1 - March 31). As going forward, monthly reports will be available. As other township boards have done, they'd like to have a compensation board look at wages and weigh in regarding if they're where they should be. Also, he encouraged township residents to come to meetings and give input. There are four columns in the handout - original budget, amended budget, activity (actual running budget to date), and proposed budget.

Wunsch: It looks comprehensive - there was a special meeting last week where they went through the budget, but if anyone has questions, please ask.

Nancy Heller - 3091 Bluewater Rd.: Thank you to board members who met with her. She's still hung up on the wages. She doesn't understand why new hires are receiving wage increases while staff who has been there longer hasn't. Unfair to staff to wait on a decision. A few months ago, \$6,000 was paid to former deputy clerk. New deputy clerk's projected wages are \$45,000. Prior deputy clerk made \$38,576. In projected budget, \$3,800 is being spent for additional assistants to clerk's office. Doesn't feel it's fair to current staff.

Public hearing closed at 7:32 pm and regularly scheduled meeting opened.

Motion by Wunsch / Wahl to approve. Roll call. Manigold - yes, Westphal - yes, Achorn - yes, Wahl - yes, Wunsch - yes, Bickle - yes. Motion passed unanimously.

5. Public Hearing on Confirmation of Special Assessment Roll for Logan Hills - Maple Terrace Storm Sewer Special Assessment District.

Manigold: Elmer's won the bid for all of the projects - in all of the districts, they came in under the projected bid, below the not-to-exceed number.

(Brian VanDenBrand excused from meeting.)

Regularly scheduled meeting closed at 7:35 pm and public hearing opened.

Ackerley: All eight SAD's are having their second public hearing tonight. This is the second of two required public hearings - these confirm the SAD rolls (inventory and dollar amount allocated to each parcel) as amended by received bids. Tonight is the confirmation of the assessment roll. Also, thank you to all of the individuals who donated easements in each of the SADs.

Team Elmer's was the winning bid and will cover all projects. The township is bonding all projects for 20 years. Any payments on or before April 21st will not bear any interest. They'll be billed in the summer tax bill. The Logan Hills - Maple Terrace projected cost not to exceed was \$452,149.90. Actual project cost came in at \$405,000.

There is one letter in opposition: Michael Tarnow - 7475 Westwind Rd. (letter read). Believes interpretation by township of "beneficial" is erroneous. No issue paying for SAD that will benefit property, but doesn't believe his has any benefit from this SAD - entire township should pay.

Gregg Diehl - 7422 Peninsula Drive. He is a part of the EA Evans plat. He objects to being on roll. The problem is caused by Logan-Hills and effect is on Maple Terrace. They are two distinct neighborhoods and his neighborhood is outside of cause and effect of drainage problem.

Bob Bolek - 7398 Peninsula Drive: He lives on the EA Evans plat. He doesn't see any benefit. The bid may have come in under, but his price went up.

Sherry Small - 7401 Westward Rd: She owns two properties on the road and would be assessed at almost \$8,000. Doesn't see any benefit. One property is natural and undeveloped, one is from a higher elevation and not affected. Opposes being on the roll.

Bob Cline - 7423 Westwind Rd: He is the neighbor of previous speakers; no benefit from drainage district. Above area that is affected. Finds cost assessment to be arbitrary. Protests SAD.

Public hearing closed at 7:52 pm and regularly scheduled meeting opened.

This process was started through the drain commissioner and road commission.

Jim Cook: The Road Commission was the petitioner on the project. They asked drain commissioner to establish drainage district - water issues outside right of way, into the right of way. The process started 2 years ago. It has evolved from an individual project to a township project. He thinks it's a good solution - addresses property owners' issues (basement flooding) and water on roadway.

Brian Boals: Resident group in Logan Hills started the process. It moved to a township project in early 2016.

Manigold: He realizes that the tribunal is open to those individuals, but has Westwind been reviewed? Does their water contribute?

Boals: Those areas are within the watershed. It can be debated how the water is flowing, but in his mind, anything south of the center line on McKinley is a part of the watershed.

Nicole Essad: Everyone agrees that higher elevation property and Westwind properties do contribute and would benefit. To those who spoke, if you want to have a written record of your protest, please do so by end of meeting for minutes and for tax tribunal.

Wunsch: From all evidence presented, it seems that the county drain commission would take a similar / identical approach. Would the allocation of costs between different property owners be the same if the county took the project on?

Boals: If the CDC did the project, he thinks they'd use the same formula.

Audience member: The board has considered the Westwind issue, so can you consider the EA Evans issue?

Boals: He didn't realize there was a prior map that didn't include those parcels. Those areas seem to be in the same position as the Westwind parcels. This is the same map that's been presented at the previous public hearings.

Bickle: What's the percentage of residents who signed a petition in favor?

Ackerley: 64.46%. It's been an evolving project over 2 years. When the CDC first presented the option, there were no up front cost estimates or assurance that residents would know value, no not to exceed amounts. The residents felt that in a private capacity, they could be more frugal and transparent in costs and process. This is the third public hearing regarding this.

Achorn: What is the average annual payment?

Ackerley: About \$3,000 split over 20 years.

Brad: If CDC took it over, it's not 20 years, correct?

Ackerley: Correct. There were no financing options.

Boals: Not very common in this area - probably in the 5-year range.

Audience member: This is a different map being used this meeting and last meeting.

Ackerley disagreed. This is the same map that has been used. Also, each SAD has been posted in the Record Eagle for two days (for each meeting).

Essad: We will add the contract with Elmer's. Also, paragraph 2 of the resolution will be amended and will now read: "The assessments in this special assessment roll shall be divided into Twenty (20) equal annual installments of principal with the first installment to be due on or before September 14, 2017, and the following installments to be due on or before the same date of the same month of each and every year thereafter. Interest, payable annually on each installment due date, shall be paid on the balance of unpaid installments at the rate of six percent (6%) per annum; provided, however, that if the Township issues Bonds, the interest rate shall be adjusted to a rate equal to one percent (1%) above the average rate of interest borne by the Bonds. Any payments made on or before April 21 shall not bear any such interest."

Wunsch: Seems that we've had good data from the engineer that the parcels included and cost allocations would be the same if kicked to the county, so it seems that there's the benefit of retaining local control and giving residents choice between paying up front or at a low rate of interest over 20 years.

Motion by Wunsch / Wahl to approve. Roll call. Manigold - yes, Westphal - no, Achorn - yes, Wahl - yes, Wunsch - yes, Bickle - yes.

Essad: If any residents want to go to tax tribunal, turn in something in writing tonight and you have 30 days after confirmation of roll to appeal it to tax tribunal.

## 6. Public Hearing on Confirmation of Special Assessment Roll for Braemar Estates Storm Sewer Special Assessment District

Regular meeting closed at 8:25 pm and public hearing opened.

Ackerley: The not to exceed cost was \$186,439; actual project cost came in at \$185,468.61.

Public hearing closed at 8:28 pm and regular meeting opened.

Essad: Same changes on resolution - addition of contract with Elmer's and amendment to #2.

Motion by Westphal / Bickle to approve. Roll call. Manigold - yes, Westphal - yes, Achorn - yes, Wahl - yes, Wunsch - yes, Bickle - yes. Motion passed unanimously.

7. Public Hearing on Confirmation of Special Assessment Roll for Maple Terrace Ave. Water Main Special Assessment District

Ackerley: This SAD has 17 parcels, with the not to exceed amount set at \$214,071. Actual bid came in at \$210,000.

Regular meeting closed at 8:30 pm and public hearing opened. No public comment. Public hearing closed and regular scheduled meeting opened.

Same changes to resolution - addition of contract with Elmer's and amendment to #2.

Motion by Wahl / Bickle to approve. Roll call. Manigold - yes, Westphal - yes, Achorn - yes, Wahl - yes, Wunsch - yes, Bickle - yes. Motion passed unanimously.

8. Public Hearing on Confirmation of Special Assessment Roll for Maple Terrace Roads Special Assessment District

Ackerley: This SAD has 22 parcels. Projected not to exceed cost was \$169,759, now \$160,000 due to bids.

Regular meeting closed at 8:32 pm and public hearing opened.

Bob Bolek - 7398 Peninsula Drive: When they repaved Peninsula Drive, GT County reconfigured entrance at Franklin Roads to divert water. When they repave the easement, he hopes they do the same. Could save the road a little longer.

Public hearing closed at 8:33 pm and regular meeting opened.

Same changes to resolution - addition of contract with Elmers and amendment of #2.

Motion by Westphal / Bickle to approve. Roll call. Manigold - yes, Westphal - yes, Acorn - yes, Wahl - yes, Wunsch - yes, Bickle - yes. Motion passed unanimously.

9. Public Hearing on Confirmation of Special Assessment Roll for Logan Hills Roads Special Assessment District

Regular meeting closed at 8:34 pm and public hearing opened.

Ackerley: This SAD has 44 parcels; not to exceed cost was \$241,026.50. Actual cost is \$190,000. Equal shares. 66.25% approval.

Public hearing closed at 8:35 pm and regular meeting opened.

Same changes to resolution - addition of contract with Elmer's and amendment of #2.

Motion by Wunsch / Westphal. Roll call. Manigold - yes, Westphal - yes, Acorn - yes, Wahl - yes, Wunsch - yes, Bickle - yes. Motion passed unanimously.

10. Public Hearing on Confirmation of Special Assessment Roll for Old Mission Estates Roads Special Assessment District

Regular meeting closed and public hearing opened at 8:36 pm.

Ackerley: Projected cost not to exceed was \$357,225. Actual cost is \$200,000. Equal share. 59.22% approval rating.

Public hearing closed at 8:36 pm and regular meeting opened.

Same changes to resolution - addition of contract with Elmer's and amendment of #2.

Motion by Wunsch / Bickle to approve. Roll call. Manigold - yes, Westphal - yes, Acorn - yes, Wahl - yes, Wunsch - yes, Bickle - yes. Motion passed unanimously.

11. Public Hearing on Confirmation of Special Assessment Roll for Westwind Road Special Assessment District

Ackerley: This SAD has 20 parcels, project cost not to exceed was \$128,628.50, with actual project cost being \$110,000. Equal shares. 62.32% approval. Resolution was passed as amended - amendment was removing a parcel if owner was willing to deed restrict a property. They filed a deed restriction - on file, not recorded yet. They were eliminated and the SAD roll reflected that.

Regular meeting closed at 8:39 pm and public hearing opened.

Jim Valesano - 103 W. McKinley (requested to be omitted) - His name is still on the list. He has no cause to have driveway / road go on Westwind. He's lived there 20 years. Doesn't want to be on list.

Ackerley clarified that it was an error for his name to still be on the list and that she would make sure it was removed.

Public hearing closed at 8:42 pm and regular scheduled meeting opened.

Same changes to resolution - addition of contract with Elmer's and amendment of #2, and resolution with amended roll regarding parcel #28-11-325-094-00 (clean version will be attached to final resolution).

Motion by Wahl / Westphal to approve resolution with parcel #28-11-325-094-00 stricken from assessment roll. Roll call. Manigold - yes, Westphal - yes, Acorn - yes, Wahl - yes, Wunsch - yes, Bickle - yes. Motion passed unanimously.

12. Public Hearing of Confirmation of Special Assessment Roll for Braemar Road Special Assessment District

Regular meeting closed at 8:45 pm and public hearing opened.

Ackerley: This SAD has 16 parcels, not to exceed cost was \$76,705.20, with the actual cost coming in at \$50,000. Equal shares. 77.46% approval. One written protest in packet from Carola Thomas. (read)

Dave Sanger - 1699 Braemar. Understands Carola Thomas's letter, but she signed the petition. She benefits from this improvement. Urges the board to listen to the access. He owns two parcels - one deed restricted. He doesn't think this neighbor should be asking for a way out.

Public hearing closed at 8:49 pm and regular meeting opened.

Same changes on resolution - addition of contract with Elmer's, amendment to #2.

Wahl suggested sending a letter to Thomas, explaining the next steps that she could take.

Motion by Wahl / Bickle to approve and provide information to resident and help her with next steps. Roll call. Manigold - yes, Westphal - yes, Acorn - yes, Wahl - yes, Wunsch - yes, Bickle - yes. Motion passed unanimously.

### **Citizen Comments**

Jim: Would like to request that if Mr. Cook doesn't stop the work, would like board to consider court injunction. Shade protects pavement. State has designation of natural beauty roads. Would like road designated as natural beauty road.

Joan Murray - 11299 Bluff Road: Thanks to the board for supporting residents. Hopes resolution helps. Too old to chain herself to tree. According to article in Record Eagle, our trees are already under stress and are disappearing. Doesn't understand why healthy trees need to be taken down. Bluff Rd. residents have been tree traumatized - past storms have already taken a lot out. Doesn't want to lose any more unnecessarily.

Bob Bevere - 12567 Bluff Road: Agrees with others. When might there be a meeting, now that there's a resolution? Trees were marked less than two weeks ago. Part of the reason residents live along there is because of the beauty and how the trees maintain those slopes.

Bob Bolek - 7398 Peninsula Drive: People come for special events and they do it for the money, but never mention how much they're contributing to the township. Should donate to township.

- Manigold: Not sure on new ordinance, but they donate money and pay for services needed. (Donated to fire department, etc.)

Andy Merrick - 2875 E. Railroad Ave. in Interlochen: He's a County Road commissioner speaking as citizen. Thank you to all the work that you have done. Road Commission has meetings every month - all residents are invited to all of their meetings. They let board know back in October what plans are. Just before the work begins, now it's being stopped - there may be a fee incurred because of this.

### **Board Comments**

Bickle: In life, there's being exactly right and generally right. We can be exactly right, but from what we've heard, the resolution simply asks to pause and have some dialogue and speak further. We understand that contracts are signed and balls are in motion, but we want to do the right thing.

Achorn: Point of reference on Peninsula Drive - the trees were marked in the fall.

Westphal: Perhaps the CRC could take the dead trees out - they've become a hazard—instead of targeting live trees. When we had the discussion in the fall, there were 56 trees that were 18 inches or greater in diameter that were proposed to be taken out; now there are more than twice that amount marked for removal. That's why citizens are concerned; as presented in Fall, there was no discussion of digging out drains and removing so many trees. The project was mis-represented at that time; especially in light of what is being proposed on the ground today.

Motion to adjourn by Wahl / Bickle at 9:09 pm. Motion passed unanimously.

The following letters were submitted in protest of the Logan Hills - Maple Terrace Storm Sewer Special Assessment District:

Gregg Diehl - 7422 Peninsula Drive

Peninsula Township:

I have made my objections to the proposed Logan Hills - Maple Terrace Storm Sewer Special Assessment District (District No. 2017-02-28 #2 of 2017) at the township meeting 3/28/17 and hereby make objections in writing here.

The proposed district does not benefit my property. The tax roll at the first open meeting did not include my property nor did the district map. As of the last meeting and this meeting my property and name now appear on both the map and roll.

The problem exists from runoff from Logan Hills and effects the Maple Terrace neighborhood, specifically 2-3 homes. My property is in the EA Evans plat and is not in either the Logan Hills association or the Maple Terrace plat. The EA Evans plat properties are neither the source of the problem runoff nor are adversely affected by the runoff and will in no way, either perceived or actually, be benefited by this drainage district or its proposed solution to their problem. My property in no way will benefit in this action and I am being arbitrarily being assessed for the construction. The original proposed district map and roll did not include my property. My property is not on the roll and map arbitrarily. The original map of the proposed district was used to describe the accurate runoff and has now been changed to spread the cost not the benefit to myself and others in the EA Evans plat.

Gregg Diehl

Paul & Lisa Bonaccini - 132358 Center Road

Ms. Westphal,

Please be advised that we are not in support of the considered Special Assessment for Logan Hills - Maple Terrace Storm Special Assessment District.

We do not receive any direct benefit from this project and therefore do not support proceeding.

Should Peninsula Township choose to proceed and assess the entire Township, we would consider some level of support.

Please feel free to contact us with any questions you may have.

Respectfully,

Paul & Lisa Bonaccini

Sherry Small - 7401 Westwind Rd.

Dear Ms. Westphal,

This letter is to notify my protest in being included in the special assessment district for the Logan Hills - Maple Terrace Storm Sewer Assessment District. My property does not derive any benefit from this proposed drain. There will be no known benefit for my property. The method of allocation is also arbitrary. I would be assessed almost \$8,000 for something that will bring no benefit to my property. I also do not see how one can prove direct cause of damage from my property to others.

Sherry Small

Robert and Susan Cline - 7423 Westward Rd.

Dear Ms. Westphal:

This letter notifies you of our protest of our property's inclusion in this special assessment district. We protest for the following reasons:

1. Our property does not derive any benefit from the proposed drain. Michigan's Tax Tribunal requires that there must be a benefit to properties in the special assessment district. Our property will not benefit in any way from the construction of the drain. The true cash value of our property will be unchanged after the project as compared to its value before the project, and the potential sale value will be diminished. It is unlikely that any knowledgeable potential purchaser of our property, having seen the property both before and after the construction of the drain, would conclude that there is any increase in value to our property. The regulations are clear on this issue a property must receive a benefit or the special assessment is improper.
2. The method for allocating the cost of the construction is arbitrary. It is unreasonable that 60% of the cost will be equal shares, even though this alone may over allocate costs for parcels furthest from Maple Terrace. The second paragraph of your notification states "40% of the cost is an allocation of costs, which factors in area of the eligible parcel, imperviousness of the eligible parcel, and the eligible parcel's potential for runoff." It is arbitrary to attempt to determine the "eligible parcel's potential for runoff."

I understand that there is a drainage problem within Maple Terrace however the cost of this work should be borne by the entire township because of the high cost of the proposed work and the arbitrary approach that has been taken to the creation of the special assessment district, or by a less arbitrary, more objectively determined allocation.

Robert and Susan Cline