

**Town Board Meeting
April 24, 2018, 7:00 pm
Regular Township Board
Meeting Minutes**

1. **Call to Order** by Manigold at 7:00 p.m.
2. **Pledge**
3. **Roll Call Present:** Manigold, Bickle, Achorn, Westphal, Wahl **Excused:** Wunsch
Also present: Gordon Hayward, Planning and Zoning, Christina Deeren, Zoning Administrator and Greg Miehn, Township Attorney
4. **Brief Citizen Comments:** None
5. **Approve Agenda**

Manigold: There are a couple of additions to tonight's agenda:

- 1) "The 81" development has requested to rename roads; this request will be added as Item #4 under Business;
- 2) Maura Sanders has resigned from the Board; only one person has signed up in time to run for that Office and it is Dave Sanger. Dave Sanger who is present this evening will be appointed to the Board at this time. After the appointment, he will need to be sworn in. The appointment of Dave Sanger to the Town Board as Trustee will be Item #5.

Any other changes to tonight's agenda?

I would entertain a Motion to approve the agenda as amended. Motion by Wahl; second by Bickle.

Passed unam

6. **Conflict of Interest:** None

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.

A. **Meeting Minutes Approval** – April 10, 2018, 7:00 pm, Regular Town Board Meeting Requested by Monnie Peters, 1425 Neahtawanta Road, Traverse City, MI 49686; to have corrections made to these Meeting Minutes. On page 5, paragraph 3, in the third sentence, it reads "estimated to be 2% of the total property located on the Peninsula. It should read experts to help in decision making, and Bickle said that the Library had wonderful and successful fundraiser last night and hoped that the minutes would reflect that and they

don't. Then if you look at the adjournment it says 8:52 pm and we were done at 8:00 pm,

and it showed 8:00 pm on the stream spot. Also at the bottom of the page, the footer indicates that it was a Study Session, but it was the Regular Town Board Meeting Minutes.

B. Reports and announcements (as provided in packet)

1. *Sheriff's Monthly Report*

Requested by Nancy Heller, 3091 Blue Water Road, Traverse City, MI 49686. At the last meeting, it was approved to put the Police Protection Millage Referendum on the August primary ballot. A figure for this service was stated at \$140,000.00 per year. My question is what is Peninsula Township receiving for this money? If I look at the monthly report for out deputy, I see information on hours spent by him in Garfield Twp. and the City, besides those spent in our township. Our share it is not very big bang for the buck.

Manigold: I will have the Officer that is in charge of the Deputies come and explain this to you because a lot of times if they are in Kingsley where the shooting range is located to qualify and different things. I would rather have him go through this than have us second guess the report.

Bickle: I recall when I first came into the Township, there used to be a calendar with the days that the Deputy worked and where he was working. That seemed to be a better visualization--there is 22 working days and 18 of them were for Peninsula. This gives you better judgment on benefit-costs.

Heller: I am asking the Board to investigate this. It was very reasonable that a citizen should be able to see that as it would be public knowledge, I would really like the Board to explain and have an understanding of what we are getting for our dollar.

Manigold: We have done that in the past Nancy, and what we have found out of the 40 hours a week is more like 32 hours a week sticks in my mind the rest of the time he is in court, gathering evidence, the shooting range. I will get that for you next week.

Heller: I appreciate you looking and if I am interpreting this correctly, then you are not even getting your 32 hours a week if this invoicing is as it appears.

Bickle: What we will do Nancy when we get a logical explanation we will reach out to you, and say okay we have something to look at.

Heller: Thank you.

2. *Site Summary Report from Call 2 Recycle battery collection*

3. *Grand Traverse Co. Road Commission-2018 Chip & Seal Projects*

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D. **Edit list of invoices** (recommend approval)

E. **Approve Use of the Charlie Doe sign** for Silent Auction May 7-11-Friends of Peninsula Community Library

F. **Approve use of food trucks at annual Local Artist's Fair** – July 21, 9am-4pm at OM Peninsula Elementary School-Friends of Peninsula Community Library

G. **Approve use of signs for a treasure sale** (May 16th-2st) at Old Mission Peninsula United Methodist Church (5 signs 20'x30")

Moved to approve the amended Consent Agenda by Wahl, seconded by Bickle.

Passed Unam

8. Business

A. Public Hearing on SUP#66-the 2018 Festival of Races sponsored by National Cherry Festival & Chateau Grand Traverse

Manigold: Closed regularly scheduled meeting and opened public hearing.

Deeren: There should be a correction to this as this is not SUP #66 rather a Large Event permit 2018-03. This is for the National Cherry Festival of races. The emergency meeting with the Sheriff's Department and the National Cherry Festival staff. The only change from this year from past years is that they are proposing to have all of Peninsula Drive closed instead of being partially opened. Our Police Department raised concerns last year about people running in both lanes of the road and it was obstructing traffic so this year they are closing the road entirely. She asked Kat Payne from the NCF to address the Board.

Kat Paye, Director of the National Cherry Festival. The festival of races has been going on for about 40 years out in Peninsula Township. We started with the ½ marathon about 5 years ago so this will be our 5th annual. The participants love running through the cherry orchards. Our non-profit enjoys the use of this great area. There are not a lot of changes other than our emergency management brought up the desire and thought that we should close Peninsula Drive to make sure things were safer for the runners, vehicle and bicycle traffic as well. So that is the big change everything else is as it has been.

Manigold: Is there anyone from the audience that would like to ask any questions?

Unidentified Speaker: What length of time are you going to close Peninsula Drive for?

Paye: I am going to ask our Operations Director, Alexis to come up and answer that, but I believe it is from 7 am to 10:30 am that we are proposing to have this closed.

Alexis: As soon as the runners go by certain roads, we will open the roads.

Paye: We have a parade downtown starting at 11 am so everyone needs to be off the road by then.

Manigold: Closed public hearing and turned the issue over to the Board.

Bickle: Thanked Kat for being here this evening. The route that they take is East Bluff over McKinley and then down Peninsula Drive.

Alexis: Are you talking about the road closure on Peninsula Drive? It is going to be from Center Road to Montmorency Lane.

Manigold: Will one lane be open?

Alexis: No, it will be a hard road closure, from Center Road all the way up to Montmorency Lane, so both lanes will be shut down. Correction, Peninsula Drive. On Peninsula Drive from Center north up to Montmorency Lane.

Bickle: I am going to ask Mr. Sanger as I know that you have served as a Deputy out on these trails; what is your view on closing all of Peninsula Drive as a safety officer standpoint?

Sanger: I did raise the issue based upon my personal observations last year. When you have our Township ambulance, people on bicycles, people running, and cars, I thought it was a very unsafe situation, especially when you mix all of that together. My experience goes back to when we did not close Center Road for the Bay shore Marathon. I think that this is a smart move; again as explained, it will be a rolling closure. Since the road will be closed as a hard closure from 7 am on both ends--from Montmorency Lane going south on Peninsula and Center going north, cars coming west bound on McKinley, Gray and Island View will also be prohibited from going on Peninsula Drive. As racers leave Chateau Grand Traverse and come over through the orchard and on to Montmorency Lane and down Peninsula Drive, when that wave of runners clears a given position like Island View then that road will be opened up. A Sheriff's Deputy will be in a patrol car a be moving along so no one will be passing the runners.

Bickle: The other question that I have is what accommodations we will make to our residents that have obligations to have to be able to get into town, as we do have some people that have medical needs or other needs. What accommodations are we going to make for them if they were to ask the Township for that during the race hours?

Sanger: I was part of the meeting with Christina that is why I wanted to jump in here. This group will be communication with the residents by means of a mailing we also discussed putting a sign up just like the Bay shore does either electronic or hard sign warring the residents two to three days in advance. Additionally there will be Sheriff's Deputies assigned to various locations. We have all been informed that if we have a situation or medical emergency that someone has to leave to get into town that we will have another Deputy come over and escort them in off the race course.

Bickle: Thank you Dave, I am very satisfied with these answers. I have no further questions.

Achorn: I have a question. You have two maps one is the ½ marathon which runs on Peninsula Drive, and we have a 15k which runs along Bluff Road to McKinley and then down Peninsula Drive. You did not mention both of them, you only mentioned one. **Paye:** For the road closure? **Achorn:** No, for the race. **Paye:** For the road closure, it is just for the ½ marathon that we are closing Peninsula Drive. **Achorn:** But there are two races. **Paye:** The 15k and the ½ marathon do start at the same time. **Bickle:** Those tend to be more of the advance runners so they tend to start and finish faster than other participants. **Paye:** We actually don't let anyone run if they can't make [the projected] time because we are following a very small window (7-10am). **Bickle:** How many people do you expect this year's run about 4,000? **Paye:** For the ½ marathon, we are expecting no more than 600, and for the 15k, around 350-400 runners. We have two other races going on in the City of Traverse City at the same time. **Achorn:** With regard to the number of people participating, in 2017 you stated that you have 907 people total participants in these races. I have been told the fee is \$1.00 per participant; that means \$907.00 was due to Peninsula Township. I looked back at our records, and on August 1, 2017, you submitted a check \$585.00. Essentially, we are short on the participant fee. **Paye:** I see that. We traditionally paid the registration fee on the ½ marathon participants; we have not paid that on the participants for the 15k. That does not mean that we can't do that, but that has not been the precedence previously. **Achorn:** Okay, I submit a request that you to pay the full \$907.00. **Paye:** We can submit a check for the remaining \$322.00. **Bickle:** We are a new Board with some financial acumen. After doing our budgets for our fiscal year end on March 31, we found several gaps in outstanding funds for the Cherry Festival race and air events. We submitted a bill for our Firefighters time, which was three full-time employees for 37 hours, which you received a bill for, and then the use of our safe boat, which was in the water for 20 hours over a 4 day period of which we only charged the Festival at \$200.00 per hour. This leaves us with an outstanding bill of \$8071.43. **Paye:** Okay. We got this bill yesterday, and this is the first time that we have seen it. We have not received an invoice previously, or knew that we were being charged for this. I am going to go back to precedence for a second; we have never paid for it before. That does not mean that we won't in the future. It is just something that we were unaware of, so it came as a little bit of a surprise as you and I discussed this morning. We were unaware that these charges were coming. We will address it as a Board because I do need to take it back to my Board as I am sure you all understand. I have a Board of 14 people. **Bickle:** You can appreciate that our role is not only as residents but also as Trustee's for our residents and their tax dollars. Their tax dollars paid for our Firefighter's during the holiday and for a ½ million dollar apparatus that we pay insurance, fuel time, etc. to be out there for the safety of the Festival goers. So it is not unreasonable to expect reimbursement. This is how we do business. **Paye:** We will address it as a Board. I cannot give you an exact answer as to what we are going to do tonight. We do have an airshow meeting tomorrow, and I will make it very clear that this is something that is now precedence for Peninsula Township so that we are aware that there is a cost related with these services. Because we were not aware last year that this is something that we were going to be paying for, we do not traditionally pay other Township's such as various other fire fighters. There are some City bills and stuff that come forward, but nothing quite like this. So this was somewhat of a surprise to me. **Bickle:** I understand and you did make that clear. **Paye:** We will address it and get back in touch with you as to exactly how to handle it. Moving forward, we would like to look at a potential contract or something so that we have correspondence saying that we would agree to it. **Bickle:** Our former Chief is not with us anymore. Is it fair, Mr. Manigold to do a conditional approval subject to the final outcome of this invoice

or how do we go about doing that? I know one is separate from the other, but it is the same Cherry Festival. **Manigold:** I would think that we would obviously have to make approval contingent on the payment of the participants in the race, but if we didn't bill them for the boat, I don't want to tie their approval to it. **Mein:** I would state that to the extent that there is a past due amount, this is a separate and distinct negotiation that you should pursue on an independent basis. This is not relevant to the approval today. Approve it today with the understanding that the payment is going to be made for the additional amounts and then a second motion would be that you would talk further on this additional issue. This could be pursued independently not unlike you receive material someone didn't pay for, but you provided new material and you can still go after for the other.

Wahl made the motion to approve the 2018 – Festival of Races sponsored by the National Cherry Festival and Chateau Grand Traverse contingent on the payment of \$322.00 and also that we will agree to work with you on the other issue with the Fire Department by **Wahl:** seconded by **Bickle**.

Roll Call—all yes

Passed Unam

Mein: Mr. Supervisor I would also suggest that the Board make a motion that there be some written agreement drafted up and provided to them that reflects this motion and other considerations in going forward. One of the comments that they made that from a contractual perspective it helps planning on both parts. I would suggest that you make that motion and then I can have that to the Board on Friday for review.

Moved by **Wahl** to have any future contractual basis with the Festival of Races sponsored by the National Cherry Festival and Chateau Grand Traverse be on a contractual basis: seconded by **Bickle**. **Passed Unam**

B. Approve Federal Emergency Management Agency Ordinance of cooperation on Flood Insurance coverage for residents.

Deeren: We recently attended a FEMA meeting and it was brought to our attention at this meeting that we were required to renew our application with FEMA so that our citizens on the Peninsula could qualify for FEMA insurance coverage. If we do not renew and opt out of the program then residents would not be able to get FEMA insurance. Therefore, this is the contract that we need to approve and submit back to them in order for our residents to qualify for the program.

Manigold: We have had this before; this is expiring so this is just a renewal. We do have in the lower area of the Peninsula five residents that currently have FEMA insurance protection coverage. The DNR provided information on each Township and how many people were applying for the insurance coverage. We need to move this forward so that our five residents do not lose their coverage.

Mein; I have reviewed this information and the draft you have in front of you is the one that I would ask for you to approve.

Motion by **Westphal** to approve the Federal Emergency Management Agency Ordinance for flood

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insurance for our residents, seconded by **Bickle**.

Roll Call: Manigold – Yes, Westphal – Yes, Achorn – Yes, Wahl – Yes, Bickle – Yes **Passed Unam**

C. Review Condominium Development By-laws and Master Deed – The 81 Development Co., LLC

Manigold: We got this to everybody approximately ten days ago for review. It has been approved by our Attorney, Gordon, and I this morning JoAnne had asked if Jennifer Hodges, GFA had reviewed it. She has and asked that the Storm Water Plan and the Sewer Plan be attached to this document when it is recorded.

Achorn: On page 17 paragraph 7.1.4 – Building Height. The Condominium documents state that the height of any building shall not be more than 2-1/2 stories, which agrees with our ordinance. The second sentence states that if any portion of the lower level floor within a building is below the grade all of that level or floor shall be considered a basement level. That is in contradiction to our article 3 of our ordinance which describes a basement. The basement shall be counted as a story for the purposes of height measurements, if the vertical distance between the ceiling and average level of the adjoining ground is more than five feet and is used for business or dwelling purposes. A cellar shall not be counted as a story for purposes of height measurements in stories. There is a discrepancy between the Township Ordinance and the By-laws, I just want to highlight that to make sure that the ordinance would supersede.

Meihn: Correct.

Westphal: I just want to check that the land description that you sent the email is the same as Sally's legal description. Meihn: Correct. **Westphal:** There seems to me that there is another description that is further on in the Master Deed. On page 13, it describes the “attached exhibit”; however, there is no attached exhibit. Meihn; Absolutely. **Westphal:** So how can it be legally described, if there is no attached exhibit? Meihn: When you are done, that would be my suggestion--which we would have to attach that exhibit on to it as it is filed to be in conformity with the correct legal description. This could be determined by Sally, and I did verify that Sally was correct on that description. **Westphal:** Not the one that is in here. Meihn: That is correct. **Westphal:** There is a second one? Meihn: That is correct. **Westphal:** I also have a question about the electrical transmission system. Will that be going in above or below ground? Hayward: Below ground. **Westphal:** I would assume that the verification of the maintenance fire suppression line that the Fire Department will do is going to have a fee associated with it. Or do we presume that the fire suppression line will be normal local maintenance that the Fire Department would do on a facility like this, even though it is on private property? Meihn: I could find out a fee structure that you had for that. The way it stands now with the ordinance, the answer would be no. **Westphal:** So maintenance of the fire suppression water tank will be the responsibility of the developer and the home owners’ association in the long term and shall be verified to the satisfaction of the Peninsula Township's Fire Department? Meihn: Correct. **Westphal:** We all agree on that? **Manigold:**

Yes. **Westphal:** I also have a question on the Master Deed that dealt with 5.3 on page 10. "Unit modification: the number size, style and boundary with location of a unit or any unit with a common element that anything on the site not on a unit that was described earlier in these Master Deeds as accessories to a unit maybe modified from time to time by the Developer or its successors without the consent of any owner, mortgagee (except as provided in the act) or any other interested persons as long as the modifications do not unreasonably diminish the appearance of the project or the view privacy of other significant attributes of any unit that adjoins or is approximant to the modified unit or unit common element". Is that common language? **Meihn:** unfortunately it is and is also meant to be very transparent. It is the language that is subject to numerous litigations across the State of Michigan. I have recently been involved with two in whether or not a change in the By-laws or Master Deed constitutes a material change that would require not only the homeowners but also the mortgagors to be able to approve. So the language that you are reading is typical, standard and permit able, but it is still vague enough that the Circuit Courts across the entire State are coming up with different results and different decisions as to what is material and what is not. Gives example. **Westphal:** This is not an issue of buyer beware or anything like that? **Meihn:** No. Every buyer as you know reads every part of the Master deed and by-laws when buying a condominium.

Motion by **Wahl** to support the Condominium By-laws and Master Deed for the 81 Development Co., LLC being filed with the additional Exhibit as approved by Sally Akerley and the Storm Water and Sewer Plan: seconded by **Bickle**. **Achorn:** The 81 has still not paid the \$30,000.00 escrow that has been requested from at least a month ago. **Meihn:** That is true and I will tell you in my discussions with them that they feel that they have not gotten the responses back from us as to what is in the account and what has been used from the account and an actual agreement back from them. I am working with Jennifer on this and she has been made aware and we do have a conference call tomorrow on that. Your point has been well taken and to be frank with you your Supervisor has made them aware of those approx. 3-1/2 weeks to a month ago when we had an in person meeting. Mr. Mouthart their counsel is well aware of that also.

Roll Call: Achorn – Yes, Wahl – Yes, Bickle – Yes, Manigold – Yes, Westphal – Yes. **Passed Unam**

D. The 81 Development Co., LLC request for Road Names

Manigold: The "81" group would like to change the street names. They have requested the main road to be named "Double Eagle Dr." and cul-de-sac lot to be called "Sung Harbor Court". Sally has looked at it; we are in the approval process with County Equalization so unless there is any further discussion on changing the names, I would entertain a motion to approve.

Motion by **Achorn** to approve the names dedicated to the 81 Planned Unit Development: seconded by **Wahl**. **Passed Unam**

5. Appointment of Trustee – Dave Sanger to the Township Board

Manigold: After Trustee Sanders resigned, there was an open period that anyone could submit their

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name to the Clerk to get authorized signatures and run for that vacant position. It was a position that a person would have to be on the ballot in August, and again in November, to be elected. At this point, let me ask Westphal if signatures were verified. **Westphal:** Yes, and the affidavit was submitted to the County. **Manigold:** Mr. Sanger was the only person that applied to fill that vacant seat; it would be appropriate for the Board to appoint him to that position this evening. Tomorrow, he will be sworn in so he will be official.

Moved by **Wahl** to appoint Dave Sanger as Trustee contingent on the August and November ballot; seconded by **Bickle**.

Roll call: Manigold – Yes, Westphal – Yes, Achorn – Yes, Wahl – Yes, Bickle – Yes.

Passed Unam

9. Citizen Comments

Nancy Heller, 3091 Blue Water Road, Traverse City, MI 49686; Supervisor mentioned the tar and chipping of Peninsula Drive, and I think as a courtesy to Bayshore Marathon that they should be advised of this county activity.

10. Board Comments – None

Manigold: Fire station #2 is going to be converted into living quarters for our new firemen that we will be hiring in the next several months so the guys will be using the meeting area as a living quarters. They will have temporary partitions. Obviously, for voting and the Old Missions Women’s Club bake sale, plant sale, etc., they will take the partitions out for that day and make other arrangements. We are asking anyone that uses that to work with us during this time to come up with other solutions as to where they can meet.

11. **Adjournment** Moved by **Bickle** and seconded by **Wahl** to adjourn.

Passed Unam

Adjournment at 7:49 pm