

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

www.peninsulatownship.com

Township Board Regular Meeting Minutes

Township Hall

May 14, 2019, 7:00 p.m.

Amended June 12, 2019, by Becky Chown

1. **Call to Order** by Supervisor Manigold at 7:00 p.m.
2. **Pledge**
3. **Roll Call:** Sanger, Wahl, Bickle, Manigold, Chown, Achorn, Wunsch
4. **Brief Citizen Comments**

Nancy R. Heller, 3091 Blue Water Rd.: had questions regarding business item number six on the revisions to the existing HRA regarding the taxable wages. Wondered if the HRA payment counted towards their retirement. Also questioned the number of staff involved and the total cost and whether other townships do this as well; would like the computation explained to her. Noted an error on item number seven and asked if “minutes minutes” had been corrected.

Harold David Edmondson, 12414 Center Rd.: commented on the new easement going over the Santucci property. Has done an analysis of the document and seen the description and it’s still going over PDR land. He thinks this is a violation of the PDR covenant. Regarding the settlement agreement that will be discussed, stated that the previous clerk assured him that Christina Deeren was paid in full. Thinks that before the board is capable of making a decision, it needs to see the documents. Does not think the lawyer fees are the township’s responsibility. He has copies of the lawyer’s bills and thinks these should be in the public records.

Meihn: stated that the bills have been in the public record for months and respectfully disagrees with Mr. Edmonson.
5. **Approve Agenda**

Moved by Wunsch to approve the agenda as presented, seconded by Bickle.
Passed unan
6. **Conflict of Interest: Achorn and Manigold have a conflict with the HRA agenda item and will opt out of the discussion of this issue.**
7. **Consent Agenda:** any member of the board, staff, or the public may ask that any item on the consent agenda be removed and placed elsewhere on the agenda for full discussion.
 1. Invoices (recommend approval)
 2. Reports
 - A. Gourdie-Fraser’s April and May engineer reports
 - B. Peninsula Community Library April and May reports
 - C. Treasurer’s monthly cash report by fund
 - D. Fire department’s April report

3. 2018 tax collection update from Grand Traverse County Treasurer Heidi M. Scheppe and settlement history for Peninsula Township
4. Sign request for Parade of Homes (recommend approval)
5. Correspondence
 - A. William Stott
 - B. Chris Rieser
 - C. Fire Chief Fred Gilstorff update on Jolly Pumpkin race at the lighthouse
 - D. Jamie and Barb Marsh

Bob Boelk, 7998 Peninsula Drive: requested that consent agenda item number three be discussed. Stated that he wrote a check to the township on April 17 and it still had not cleared the bank. Questioned why and asked when the treasurer's office makes deposits.

Bickle: stated that deposits are done daily and was not sure why this check had not cleared. Invited Mr. Boelk to come into the office so they could research the matter.

**Moved by Chown to approve the consent agenda as presented, seconded by Wunsch.
Roll call: Passed unan**

8. Business

1. Public hearing on draft of proposed Blight and Nuisance Ordinance No. 54 (Deeren) (No action to be taken at this time)

Manigold: stated that the board would not vote on this item tonight and that another public hearing would be held next month to discuss this issue further. Noted this is the first attempt to get this out before the public.

Manigold closed the regular scheduled meeting and opened the public hearing on Blight and Nuisance Ordinance No. 54.

Deeren: thanked the audience for being in attendance and noted that she is aware this is a contentious subject. Clarified that Trustee Sanger was not involved in drafting this ordinance and that she was the sole author. Explained that, in 2017 a proposed junk ordinance was turned down and the word "junk" seemed offensive to people so it was changed to a "blight" and "nuisance" ordinance. Presented a PowerPoint presentation to the board on the current ordinances, issues in the township, and the staff's inability to deal with these issues.

Jennifer Venegoni, 16213 Center Rd.: presented issues she had with the proposed new ordinance beginning on page one, section two, third line down. Stated that she had spoken to a real estate professional earlier in the day, gave details of sales of vacant and improved properties, and stated she does not believe property values have been impacted. Also addressed page six, section five, on "neat" and "orderly" and believes this is left open for interpretation.

Nancy Heller, 3091 Blue Water Rd.: feels that this ordinance is modeled after a gated community. Addressed ordinances in other communities and their length and disputed the length of time of seven days; said it is not enough to achieve compliance. Believes that these issues should be dealt with by the residents and not the township and then went through the ordinance and highlighted areas she disagreed with.

Chuck Goodman, 1875 Gray Rd.: stated that it's important to find out what the problems are but thinks that overall this is a too broad and over-achieving ordinance. Suggested that three to four officers would be needed to take care of it all and is sure this is not what is really wanted. Expressed concerns that this ordinance is not suitable to the farming community and that it is an attempt to over reach.

Harold David Edmondson, 12414 Center Rd.: submitted letters to the recording secretary for addition to the minutes (see attached letters). Spoke about the "goodies" on his property and said they might be classified as junk to others but not to him. Stated that the zoning director did not have a pulse on what makes this community work. Spoke about the purchase of development rights program that residents have an investment in and his support for the farming community.

Louis Santucci, 12602 Center Rd.: wished it had been kept as a junk ordinance. Said the proposed ordinance is unnecessary and vague, overbroad, and does not comply with the real world. This is an agricultural community first, and a working farm is not a tidy white picket fence homestead. Machinery comes and goes at all hours of the day and night and breaks down, is stored, and worked on outside where materials are also stored. Farmers feel pressure from the loss of the cherry crops don't need useless and silly regulations that inhibit the ability to keep their farms going. Any non-conforming use pre-existing an ordinance is lawful and runs with the land; explained that these provisions are overly vague and broad.

Randall Hall, 2610 Twin Eagles Dr.: saw the article in the *Old Mission Gazette* written by Jane Boursaw. Said this type of ordinance is very common; the ability to regulate nuisance and blight is viewed generally by municipal government as a legitimate use of police power. Some are very brief, one or two pages, but it's not unusual to have up to eight to ten pages. Does agree with some comments; noted there are vague portions in the proposed ordinance. Feels this community is a blend of residential and agricultural. A lot of communities would use an ordinance like this with exemptions to the agricultural districts as not to oppress the farming community.

Tim Boursaw, 12875 Bluff Rd.: explained his passion for restoring and saving old vintage sports cars. Noted that he might be on the edge of compliance of the ordinance with several cars being on his property. Spoke about boat hoists and docks all along the peninsula. Feels that flexibility should be used in creating an ordinance.

Manigold: said this is our first attempt to try to bridge some different issues that we have in the ordinances. Suggested another approach might be the steering committee that will be appointed. Said Zoning Director Deeren first suggested this. These are peers in the community. They could research this further along with putting together a survey that would cover different needs of the community. Said most violations are on the residential meets and bounds parcels.

Meihn: agreed that this would be best fit for the steering committee with the direction that they create a subcommittee with residents in the room participating.

Bickle: stated that it is important to bring this up instead of tearing it down as there is a blend of different needs in the community. He is in favor of doing something to set up a specific group of residents and neighbors and set the structure to work on this to come up with some suggestions.

Manigold: suggested that a motion be made to table this ordinance forever and begin again with members of the community participating in writing a new ordinance.

Tim Boursaw: offered to have information placed in the gazette for public notification.

Open public form with the board and unidentified residents in attendance.

Brad Rick Shaffer, 999 Beautiful Shores: said legal fees and insurance fees have increased over the past seven to eight years; asked what is driving these fee increases.

Bickle: explained that what has taken place is the litigation with the 81, which drove up the unbudgeted insurance costs. The insurance company with the last claim only paid so much of the fees associated with that case as the township had expended through all of their insurance coverage.

Shaffer: requested that an excel spread sheet be run so people can see this. Concerned that the legal fees could rise again with the proposed ordinance. Wondered what the residents are getting for their dime.

Manigold closed the public hearing and opened the regular board meeting.

Manigold moved to table the current Blight Ordinance No. 54 forever indefinitely, seconded by Wunsch.

Roll call:

Pass unam

Marilyn Elliott, 18811 Whispering Trail: thanked Zoning Director Deeren for recommending the rewrite of the proposed ordinance to the steering committee.

2. Restatement of attorney's position regarding committee meetings (Meihn)

Meihn: since January, the board has addressed the issue with regard to which meetings are governed by the Open Meetings Act and which are not. A PowerPoint presentation was done on this specific issue along with a letter in a legal memorandum that was also provided to the prosecutor's office and others that are in agreement with the position. Committee meetings are not guided under the Open Meetings Act to the extent that they engage in review, proposals, and make recommendations to the board provided that the board requests the recommendation or proposal be made to them. If a committee engages in making decisions, that committee would be in violation of the Open Meetings Act unless it has been delegated decision-making authority. The steering committee has been made part of the Open Meetings Act under a specific resolution. Information was provided in the board packet.

3. Completion of the Campbell/Santucci deed (Meihn)

Meihn: we have concluded the signed deed to correct the issue regarding Campbell's property. It is not illegal for a PDR property not to have an easement. As long as the property is deemed to be non-buildable, it doesn't need an access to it. The prosecutor who has been involved in this has been made aware of this. Vines and grapes are growing over that easement. Mr. Santucci has been willing to formalize the easement that has been ongoing according to Mr. Campbell for over twenty-five years that he has been using this land to access his parcel. Meihn has been keeping the prosecutor's office aware of the situation along with discussions of whether or not this is a violation of the PDR. A legal opinion will be provided to the prosecutor within the next week to ten days outlining the details. The deed will be ready for filing this week; the documents are signed. A new land division will need to be done to reflect this new access. No action is required by the board at this time. A new land division will be presented to the board at the appropriate time that will be in compliance with the PDR covenant requirements.

4. Presentation of findings regarding Bonobo/viewshed complaint (Meihn)

Meihn: this task was given to Gordon (Hayward) to review, and his report is in. The viewshed is in fact where it should be; it is compliant contrary to the position of the one person who filed a complaint with regard to that. Information regarding this was provided in the board packet as well.

5. Worker's compensation requirement (Meihn)

Meihn: which individuals who work for the township are required to provide this coverage? This is not related to employees but rather to service providers, contractors, and vendors. Any person engaging in work for the township who has employees is required to have workers' compensation so that if those employees are injured, they are covered. This is the shield that protects employers from being sued by their employees. Sole proprietors who are the only owners of a business and have no employees under Michigan law are not required to carry workers' compensation insurance coverage.

Board had open discussion over this matter.

Moved by Wunsch to require all contractors, vendors, and service providers to carry workers' compensation insurance, seconded by Wahl.

Roll call:

Pass unam

Moved by Wahl to have Rob and Marge removed from the board, seconded by Chown.

Pass unam

6. Revisions to existing HRA resolution (Meihn)

Meihn: three to five years ago, the board approved an HRA resolution for those full-time elected officials and employees, and because of their age, certain individuals would not qualify for specific benefits. This prior HRA resolution was not a clear document, which did not make sense and left issues open for questions. The document provided in the packet is designed to segregate out full-time employees and full-time elected officials who cannot receive health benefits due to

their age to provide taxable compensation equal to the formula that covers the cost to gain insurance through another source. This does nothing different than the original document except give more clarification that will supersede the prior policy.

Board had open discussion over this matter.

Moved by Wunsch to approve resolution 2019-05-14 (# to be given after the fact): Now, therefore, be it resolved that Peninsula Township Board hereby establishes the following policy allowing eligible employees and elected officials the ability to opt out of Peninsula Township's health insurance and with provisions allowing for the payment in lieu of health insurance, which shall be applicable to all eligible full-time employees and elected and appointed officials of Peninsula Township, seconded by Chown.

Roll call; Wunsch – yes, Sanger –yes, Wahl – yes, Bickle –yes, Chown –yes.

Abstain: Achorn and Manigold.

Pass unam

Moved by Wahl to have Manigold and Achorn return to the board, seconded by Bickle.

Pass unam

7. Resolution regarding best practices for recording township board meeting minutes (Meihn)

Meihn: outlined the details of this resolution. Said it is specific to the township board and not the planning commission or the zoning board of appeals. Best practices for boards that record meetings are to destroy those recordings and videos within a specific period of time after the minutes are transcribed and approved with the streaming of these meetings removed after thirty days. Courts only move on the motions and the result of the motions rather than the arguments, statements, opinions, and thoughts of people. The only exception for this would be if there is an open FIOA request or subpoena; then you would not destroy these recordings. Noted that he provided a resolution for best practices.

Moved by Bickle to adopt resolution number 2019-05-14 (sub A), seconded by Achorn.

Roll call:

Pass unam

8. Settlement agreement and release with Zoning Director Christina Deeren (recommend approval) (Meihn)

Meihn: this is the settlement agreement that has been signed by Christina Deeren and that has been ongoing since December 2018. This covers the complaints that were made and addressed in the investigative reports that were previously provided to the board regarding unpaid overtime and hours worked during lunch time. Approval of these payments has already been made. Settlements of wage and hour are not enforceable as these can be settled with the employee. The Department of Labor has the ability to come in and audit claims of unpaid wages for up to three years. The claims provided by Christina were only submitted for a one-year period of time. Susan and Sally have reserved their rights to retain their rights for claims. This releases Deeren's claims that she had with the township and the former clerk.

Moved by Manigold to accept the signed agreement with Christina Deeren in the amount of five thousand six hundred and fifty-six dollars, seconded by Chown.

Roll call:

Pass unam

Meihn: for public notification, a meeting is scheduled to deal with the investigative report as it relates to a planning commission member's communications outside of an open meeting. The investigative report has been concluded except that Susie Shipman was on vacation at the time her emails were received and the last of the information has been supplied; her comments will be included in the report to be finalized and provided to the board before noon tomorrow. The report should be disclosed to the public as part of the meeting to take place to address this issue. Meihn reported that he has also completed a review of concerns and issues that occurred in the clerk's office that were unresolved regarding bills. On April 25 a bill was received from Consumer's Energy for damages that occurred in July of 2018 that were submitted to the former clerk in the amount of two thousand and twenty-seven dollars and ninety-one cents, which is still owed. Consumers stated on May 9 that it would file a lawsuit to recover this cost. It has also been determined that a number of penalties and payments were due to the IRS for failure to file the appropriate 941s on a timely basis and failure to file in a competent matter and failure to submit fees on 941s on a timely matter. The total amount of fees and penalties that have to be paid beyond what is submitted based upon the audit is in the amount of three thousand two hundred and twenty-five dollars for failure to submit in time. Meihn will work with the current clerk to ensure that this is not a problem. In discussions with the insurance provider, an audit was conducted and it was discovered that in 2018 the former clerk had vacant land listed that was under reported by one hundred and thirty acres in the township. Payroll was under reported in the last year by approximately one hundred and eighty-one thousand dollars, the work compensation audit report showed that the reports were not done properly and did not list the officers, and the 941s were not paid. The number of employees listed on the workers' compensation report was not correct, listing thirteen people. Subcontractors were listed but no data was provided as that audit report required. In addition, property liability was a concern as Peterson-McGregor determined that the former clerk had under insured township property by over eight hundred thousand dollars. Three properties were insured that are not township-owned properties, four sites were insured for contents that do not have contents on the locations, eight properties were not insured at all, and two sites were not insured for contents. All of these issues are the result of an audit. The clerk's office is now able to operate appropriately.

9. Citizen Comments: None

10. Board Comments

Manigold: wanted to put the board on notice that he would be involved in a land division with the Bagley estate as he is purchasing a ten-acre tract of land. Wanted to disclose this publicly as outlined in the requirements under the new land division act.

11. Adjournment: Moved by Wahl, seconded by Sanger.

Adjournment: 9:12 p.m.