OFFICES OF
BROTT, SETTLES & BROTT, P.C.
A PROFESSIONAL CORPORATION
ATTORNEYS & COUNSELORS AT LAW
5168 U.S. 31 NORTH
POST OFFICE BOX 300
ACME, MICHIGAN 49610
TELEPHONE (231) 938-1000
FACSIMILE (231) 938-9825

ROBERT W. BROTT
PHILIP A. SETTLES
WILSON D. BROTT

SUTTONS BAY OFFICE
421 N. ST. JOSEPH STREET, SUITE 203
POST OFFICE BOX 811
SUTTONS BAY, MI 49682-0811

August 8, 2016

Email and regular mail:

Clerk, Monica Hoffman:
clerk@peninsulatownship.com

Supervisor, Pete Correia:
supervisor@peninsulatownship.com

Director of Planning & Zoning, Michelle Reardon:
planner@peninsulatownship.com

Township Hall
13235 Center Rd.
Traverse City, MI 49686

Dear Ms. Hoffman, Ms. Readon, and Mr. Correa,

As you may be aware, I represent Kevin and Vicki O'Grady, the principals of The 81 Development Company pertaining to its alternate development plans pending before the Township. This letter concerns the up and coming hearings for each of the plans, with the 53 unit 'use by right' subdivision plan before the planning commission on August 14, and the 41 unit PUD before the board on August 23 to determine the issues on remand from Judge Rodgers.

In this regard I regret that another issue of a 'conflict of interest' has arisen. I refer to Trustee-Penny Rossi's letter to the Record Eagle published on Friday, July 29, 2016. This letter to the Record Eagle certainly suggests that Ms. Rosi has prejudged the matter. I am including a copy for reference.

Certainly the plans have become contentious, as evident by the publications over the past several months, and although difficult, it would be important for the Board Members to keep an open mind in making these quasi-judicial determinations. [1] By engaging in hearings the board takes up its quasi-judicial role affording basic due process, to wit; "the opportunity to be heard 'at a meaningful time and in a meaningful manner'" [2]

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[1] Dubois v. Twp. Bd. & Highway Com'r of Riley Twp., 126 Mich. 587, 588, 85 N.W. 1067, 1067 (1901)

[2] Snay v. Vest, 489 Mich. 914, 917, 796 N.W.2d 464, 466 (2011)

The opportunity to be heard is vital to the hearing process; as vital for the public as it is the applicant. So too is coming to the hearing with an open mind, and both are recognized by the Township Code of Ethics. The Code recognizes the importance of having an open mind by its prohibition of making statements suggesting prejudgment, to protect the public and the applicant, providing as follows:

> *A.13 When making discretionary, administrative decisions, including but not limited to land use decisions, township officials shall refrain from making statements or taking any actions outside the formal decision-making process that would suggest they have prejudged the matter before them or would preclude them from affording the applicant and the public a fair hearing.*

Similarly, the importance of keeping an open mind is recognized in the Township's Rules of Procedure calling for recusal when statements suggesting prejudgment have been made, providing:

> *9.2.4. While being a member of the township board the township board member had made statements or taken any action outside the formal decision-making process that would suggest that he or she has prejudged the matter before the township board or would in any way preclude him or her from affording the applicant and the public a fair hearing."*

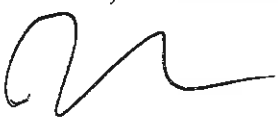
I have been hopeful that our opportunity to be heard would be in a meaningful manner yet it would be difficult to proceed with such a notion if the decision makers prejudge the matter.

I fully understand that this can be a difficult decision and I do not take this request lightly. I know a similar request was made earlier by attorney Joe Quandt and I had hoped to avoid these issues. Nonetheless I would like to proceed with the notion that the Township will afford the applicant and the public a meaningful opportunity to be heard, and in that regard I urge that Ms. Rosi recuse herself.

I would also urge that you contact your attorney pertaining to my request and let me know if you have any questions.

Very truly yours,

BROTT, SETTLES & BROTT, P.C.



Philip A. Settles

PAS/amc
Enclosures
Cc: Kevin O'Grady
James Young

OPINION

Vote for Peninsula team

Last year, the current Peninsula Township Board approved a special use permit for an 81-acre development on Boursaw Road. The development ignored our master plan by allowing almost half the natural slopes to be reconfigured (bulldozed), with subsequent removal of nearly 40 percent of natural woodland. Years ago, developments such as Port of Old Mission, Eagle's Landing, The Bluffs and The Woods at Willow Point were developed with respect for the land.

I support Manigold, Bickle, Westphal, Achorn, Sanders, Wahl and Wunsch for the Peninsula Township Board. We need fresh eyes to protect this special place.

Penny Rosi
Retiring Peninsula Township Board Member
Traverse City

ADDITIONS

Peninsula Township
Invoice Approval Report

08/09/2016 03:41 PM

VENDOR	DESCRIPTION/DISTRIBUTION		AMOUNT
BS & A SOFTWARE	INTERNET SERVICES AND ASSESSING SYSTEMS		$3,576.66
	101-209-818.000	*1,020.89*	
	101-209-818.200	*1,414.33*	
	101-225-818.000	*570.72*	
	101-253-818.000	*570.72*	
BS & A SOFTWARE	INTERNET AND ASSESSING		$569.67
	590-000-818.000	*569.67*	
BS & A SOFTWARE	INTERNET AND ASSESSING		$569.67
	591-000-818.000	*569.67*	
CLASSIC POWER EQUIPMENT	JOHN DEERE GATOR		$22,873.36
	206-000-970.000	*22,873.36*	
CONSUMERS ENERGY	JULY 2016 FD2 STREETLIGHT		$12.97
	206-000-926.000	*12.97*	
CONSUMERS ENERGY	2016 TOWNHALL STREETLIGHT		$25.96
	101-265-926.000	*25.96*	
CONSUMERS ENERGY	AUGUST 2016 BHP STREETLIGHT		$21.55
	208-751-926.000	*21.55*	
CONSUMERS ENERGY	AUGUST 2016 STREETLIGHTS		$344.05
	101-000-226.010	*10.39*	
	101-265-926.000	*17.55*	
	101-265-926.000	*28.47*	
	101-000-226.000	*14.23*	
	101-000-226.075	*18.80*	
	206-000-926.000	*9.98*	
	101-265-926.000	*9.98*	
	208-751-926.000	*39.94*	
	101-000-226.030	*9.98*	
	101-000-226.040	*9.98*	
	101-000-226.060	*139.78*	
	101-000-226.070	*9.98*	
	206-000-926.000	*12.47*	
	101-265-926.000	*12.52*	
GOURDIE-FRASER, INC	579 HIDDEN RIDGE		$480.00
	701-000-255.STW	*480.00*	
GOURDIE-FRASER, INC	LOGAN HILLS MAPLE TERRACE SAD		$6,020.00
	101-101-967.LHB	*6,020.00*	
GOURDIE-FRASER, INC	MOE-BRAEMAR SAD		$4,232.00
	101-101-967.LHB	*4,232.00*	

VENDOR	DESCRIPTION/DISTRIBUTION		AMOUNT
GOURDIE-FRASER, INC	THE 81 ON EAST BAY		$270.00
	101-400-818.000	*270.00*	
HAMILTON DEBORAH	MILEAGE		$59.40
	101-215-870.000	*29.70*	
	101-191-870.000	*29.70*	
HOFFMAN MONICA	MIELAGE AND EXPENSES		$382.26
	101-215-870.000	*185.22*	
	101-191-870.000	*185.22*	
	101-215-960.000	*5.91*	
	101-191-960.000	*5.91*	
MCCARDEL CULLIGAN WATER	COOLER RENTAL		$21.00
	101-173-818.000	*21.00*	
PHOENIX SAFETY OUTFITTERS	UNIFORMS		$127.00
	206-000-935.000	*127.00*	
PHOENIX SAFETY OUTFITTERS	UNIFORMS		$750.00
	206-000-935.000	*750.00*	
RECORD EAGLE (PUBS)	JULY 2016		$1,973.40
	101-410-900.000	*97.75*	
	101-101-900.000	*182.25*	
	101-191-900.000	*73.50*	
	101-430-900.000	*529.25*	
	101-410-900.000	*503.00*	
	101-101-967.LHB	*267.90*	
	101-430-900.000	*172.75*	
	101-410-900.000	*73.50*	
	101-101-900.000	*73.50*	
STAPLES CREDIT PLAN	SUPPLIES		$39.97
	101-173-726.000	*25.99*	
	101-191-726.000	*5.00*	
	101-209-726.000	*8.98*	
STEVEN H. SCHWARTZ	UNION GENERAL MATTERS		$2,177.50
	206-000-801.UNI	*2,177.50*	
TRAVERSE CITY LIGHT & POWER	HOMESTEAD LIGHT		$7.97
	101-000-226.080	*7.97*	
VERIZON WIRELESS	CELL PHONES		$293.02
	206-000-850.000	*50.04*	
	207-000-850.000	*55.34*	
	206-000-850.000	*166.48*	
	508-000-850.000	*16.64*	
	206-000-850.000	*4.52*	
VERIZON WIRELESS	10 TABLETS		$120.20
	101-901-970.173	*120.20*	

VENDOR	DESCRIPTION/DISTRIBUTION		AMOUNT
VERIZON WIRELESS	TABLETS		$121.20
	101-901-970.173	*121.20*	
VERIZON WIRELESS	FD TRAINING TABLETS		$97.12
	206-000-850.000	*97.12*	
VERIZON WIRELESS	3 TABLETS		$50.06
	101-901-970.173	*50.06*	
VERIZON WIRELESS	TABLETS		$90.14
	101-901-970.173	*90.14*	
WILKINSON ROBERT	BILL FOR SIDING PROJECT WEST WALL OF OFFICE		$3,800.00
	101-265-930.STM	*3,800.00*	
YOUNG, GRAHAM, ELSENHEIMER	LEGAL FEES		$30.00
	591-000-801.000	*30.00*	
YOUNG, GRAHAM, ELSENHEIMER	LEGAL FEES		$30.00
	590-000-801.000	*30.00*	
YOUNG, GRAHAM, ELSENHEIMER	LEGAL FEES		$6,803.00
	101-101-967.LHB	*1,287.50*	
	101-101-967.LHB	*31.00*	
	101-101-801.000	*1,007.50*	
	101-410-801.000	*604.50*	
	101-410-801.000	*170.50*	
	101-101-801.000	*20.00*	
	101-400-801.000	*20.00*	
	101-420-801.000	*40.00*	
	206-000-801.000	*20.00*	
	297-000-801.000	*10.00*	
	208-751-801.000	*30.00*	
	101-410-801.000	*1,593.50*	
	101-101-801.000	*356.50*	
	101-410-801.000	*263.50*	
	101-420-801.000	*852.50*	
	101-410-801.000	*496.00*	
		Total:	**$55,969.13**