

PENINSULA TOWNSHIP
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**Regular Town Board Meeting
September 11, 2018, 7:00 pm
Peninsula Town Hall
Meeting Minutes**

1. **Call to Order** by Supervisor Manigold at 7 p.m. A moment of silence for the victims of 9-11 and the first responders that perished.
2. **Pledge**
3. **Roll Call:** Sanger, Bickle, Manigold, Westphal, Achorn, Wunsch
Absent: Wahl, excused
Also present: Randy Mielnik, Township Planner, Jennifer Hodges, GFA
4. **Citizen Comments for items not on the agenda:**

Harold David Edmondson, 12414 Center Rd., Traverse City, MI 49686; I would like to comment on the issue of monitoring of the PDR contract. First of all, I would like to say that I hold five of these contracts; therefore, I am the grantor and the Township is the grantee. In the contract, it states that we are supposed to have a qualified non-profit entity, presumably the Land Conservancy. This contract is between the Township, the citizens, and me. Even though the ordinance gives you a path on how to monitor these contracts, I feel that allowing staff is a significant conflict of interest. Staff is part of this contract indirectly; they work for the Township and the Township is part of this contract. I think that is quite relevant. The other point that I would like to make is that Isaiah Wunsch, JoAnne Westphal, Rob Manigold and Dave Sanger also hold PDR contracts. You cannot have staff monitoring your contracts; that is inappropriate. We found that even with Mr. Uithol (Editor's note: the past assessor), the Township did not like the quality of work he did. At least he called me, showed up at my farm, and we talked. No one else has ever done that other than the Conservancy. I think that you should really consider getting an independent outside source regardless of the cost. I don't think that we should have people coming to our farms on the weekends to accommodate their time. They need to accommodate the farmers and the people that hold this contract. Have respect for that. Thank you.

Neil Lau, 18100 Bay, Traverse City, MI 49686. My family has been occupying the house across the street from Hasserot Beach for the last nine years. I have been trying to get some sanity on Hasserot Beach. Things are moving along down there. We got the 25 mile an hour speed limit signs back, and I appreciate that as I know everyone has been pushing for that. What I would like to talk about tonight is Kelley Park. In looking at the proposals, I think some seem to be somewhat short-sighted. The idea of putting the parking lot on the beach side of the paved road seems to be a bad idea. To me, that area should be beach, fire pits, and places to barbeque, with picnic tables and some trees. Put the parking area above the road and run a single gravel lane down to the beach to unload boats which will not be anything very large as I understand. In that regard, the beach moves in and out. I think that needs to be taken into account, and I don't know that it has been. There were talks of tearing out all the buildings and infrastructure, and I understand that there are vaults in the ground there.

Manigold; There is a pressure system built in there, but it has been vacated and has not been exercised in 15 years.

Lau; I know that there is electricity, are there wells?

Manigold; I do not believe that there is a well there.

Lau; It just seem to me that taking the electricity out, is short-sighted. Pulling out the buildings and infrastructure, if it isn't broken, calls for a wait and see what we can do with it. I would love to see people camping down there again. What I would really like to see is that little building up by the street

have a big sign that says “Public Beach” with an arrow, along with one on Swaney Road that says Public Beach with an arrow. That would take pressure off of Hasserot Beach .

Manigold; You know that the DNR owns that land, and they are taking public suggestions for any additional work to be done at that site.

Mary Swift, 13956 Peninsula Drive, Traverse City, MI 49686; Is the Attorney here tonight?

Manigold; No he had been called away.

Swift; Maybe I should wait then until the meeting with the Attorney because what I have to say is important enough that the Attorney should hear it.

Manigold; Okay.

Swift; I will say that there is serious concern about the quality of work coming out of the Clerk’s Office, and those concerns will be voiced publicly now because my reputation is personally being maligned in the community and I cannot allow that. That is why I am going to address it, but I will wait until the Attorney is present. Thank you.

5. Approve Agenda

Manigold; Changes to the agenda include a request from Nancy Heller to move item 7.b.1.a. under the Consent Agenda (Precinct#2 voting location– Congregational Church, November, 2018) be put on the Business Agenda as Item 8.e. There will not be a closed session tonight as the Attorney is not present so the original Item 8.e will be removed. A new Item 8. f. will be added because it was brought to our attention today, that what we did at the July 10, 2018, Peninsula Township Regular Board Meeting, was not legal. We had two representatives on the Planning Commission and two more on the Zoning Board of Appeals coming up for review, and we granted them a one year extension; this is not legal (editor’s note: according to MTA, the positions need to be open to the public, and the Board needs to select the best applicants for a 3 year term). We need to ask those people to come in and go through the application process for a regular three year term.

Moved by **Wunsch** to approve the agenda as amended, seconded by **Bickle**. **Pass Unam.**

6. Conflict of Interest - None

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.

a. Meeting Minutes Approval—August 14, and August 28, 2018 Regular TB meetings 7pm,

b. Reports and announcements (as provided in packet)

1. Officers

a. Clerk—Precinct #2 new voting location--Congregational Church, November, 2018.

Moved to Business as item 8.e.

b. Treasurer’s Report

2. Staff

a. Planner’s Report

e. Correspondence

d. List of Invoices (recommend approval)

Sanger; Requested some corrections from the minutes from August 14, 2018. These involved the spelling of “Mielnik” on page 6 under item e, and on page 8, “truths” need to be corrected to “truce”.

Bickle; In the invoices for recommended approval, you will notice there are a number of Gordie Fraser invoices. The Clerk’s Office and Treasurer’s Office have reviewed them together. These are invoices that are long past due for various reasons; we felt that they needed to get paid. Also we have Greg Meihn under counsel for a fixed rate under contract; what we did not do is set up a monthly payment initially. Just be aware that is a fixed rate so whatever he does for us generally falls under that monthly stipend.

Manigold; I would like to pull the August 28, 2018 Town Board Regular meeting minutes from the agenda. I have an issue with what Dave Edmondson brought up in terms of going out for monitoring of the PDR. I do not believe that was what the minutes said, so I would like them transcribed verbatim under item f only. (Editor's note: these minutes were not edited by the Clerk, but reflect what the Recording Secretary heard at the meeting). I would like those minutes removed until the next meeting.

Moved by **Wunsch** to approve the August 14, 2018, TB Regular Meeting Minutes with the recommended changes and table the August 28, 2018, TB Regular Meeting Minutes until the changes can be made verbatim to item 8.f.; seconded by **Bickle**. **Roll Call**; Achorn – yes, Wunsch – yes, Sanger- yes, Bickle – yes, Manigold – yes, Westphal –yes. Yes – 7 No-0 **Pass Unam**

8. **Business**

a. **Public Hearing on Brys 3rd Amendment to SUP#115**

Manigold; Closed Regular scheduled meeting and opened public hearing.

Walter Brys, 3309 Blue Water Rd., Traverse City, MI 49686. I have a copy of what I am going to say that was provided to the Recording Secretary, and a copy was provided to Randy Mielnik for the packets.

Presentation to Town Board on September 11, 2018

My name is Walter Brys, Mailing address is 3309 Blue Water Rd., I currently live in the renovated farmhouse at 3301 Blue Water Road which is designated under SUP -115 as the on-site manager's residence. I am here tonight to present a summary of my request for Approval of Amendment #3 to SUP 115. The Amendment #3 request is asking for Town Board Approval to precede with the following:

First, the current Winery-Chateau zoning language (Section 8.7.3.10) stipulates that within the Winery-Chateau Special Use Permit, an on-site resident manager is required (Section 8.7.3.10.j) and **this request** is to change the designated location of the on-site resident manager from 3301 Blue Water Road to 3547 Blue Water Road. On July 10, 2018 the Grand Traverse County Road Commission **approved** a driveway permit and the Grand Traverse Equalization Department **assigned** the 3547 Blue Water Road Street address for the requested location of the on-site resident manager; copies of both documents have been provided to the Peninsula Township Planning Department. This Amendment #3 request **does not** require a variance to the existing approved SUP#115 because the 3547 Blue Water Road location is within the originally approved acreage required by the Winery-Chateau special use zoning and does not negatively affects any vineyard plantings. Prior to selecting the 3547 Blue Water Road site, I did hire KTM Excavating to confirm with Grand Traverse Health Department officials that soil conditions were suitable for installation of a typical septic system. Four test/locations were dug. Three test pits were suitable for drain field installation. These results were verbally reported by KTM Excavating to Mr. Daniel Thorell, the Grand Traverse County Environmental Health Director. Town Board's approval of this request will allow me to proceed with negotiations and costly contractual obligations with a home contractor to build the on-site resident manager home. All necessary governmental permits and approvals, including final Occupancy Permit, will be the contractual responsibility of the home builder. The estimated timeframe to complete the project from contract signing until Occupancy Permit is twelve months. The approval of the Town Board is necessary as the first step in this project. Moving forward with a building contractor is costly, and it is not prudent without having the Town Board approval. Furthermore, the Township is protected as all permits and code approvals are required by the building code department before an occupancy permit is given.

Second, the current Winery-Chateau zoning language (Section 8.7.3.10) stipulates that within the Winery-Chateau Special Use Permit, up to twelve guest rooms are allowed. Currently SUP#115 is approved for two guest rooms in its on-site Guest House. This Amendment #3 is to approve five Guest Rooms in the 3301 Blue Water Road farmhouse; for combined total of seven approved Guest Rooms within SUP#115. When the 3301 Blue Water Road farmhouse was renovated in years 2000-2001, it included five bedrooms each with full bathrooms and all exceeding 250 square feet in size (Section 8.7.3.10.k). Currently, the original architectural/engineering plans (originally permitted by GT County Building Department) for the 2000/2001 farmhouse renovation, are being reviewed by the local architectural/engineering firm of Traverse Architecture Group in coordination with Mr. Bruce Remai (Building Official – GT County Construction Code Office) for code compliance for the proposed use as five guest rooms. A summary copy of their review has been provided to the Peninsula Township

Planning Department. It basically said that the house meets the codes with the exception of one room where an adjustment to a window for exiting purposes is needed. That information has been turned over to the Planning Department as of today. Mr. Remai has done a review in coordination with the architect we have hired, and it looks like this is the only item that we have that would require some sort of adjustment to the house. Necessary code related changes to the existing farmhouse will be made by licensed contractors (under required permits) prior to requesting an Occupancy Permit for use of the Guest Rooms. In response to Section 8.7.3.10.n, of the Winery-Chateau zoning language, on August 28, 2018, the Grand Traverse County Environmental Health Division conducted a review of the farmhouse existing well and septic system; both meet the proposed guest rooms use requirements. However, because of the age of the existing well plus its minimal distance from the septic tank, they require that a new well be installed per the specifications noted on the Well and Septic Status Form report dated August 28, 2018 (a copy of the report has been provided to the Peninsula Township Planning Department). This requirement will be met prior to an Occupancy Permit request being made for the guest room use. The well was initially installed in the 70's. We have lost one pump down the well casing already, and we have a separate one in there now. It is pretty old and the pressure is down, so this is a good idea. The new well will be placed at least 75 feet away from the existing septic system. We will make the distance in excess of what the requirement is for the Code Department.

In summary, the Town Board's approval of SUP#115 Amendment #3 will provide the applicant confidence to enter into costly/expensive commitments with contractors to:

Complete the necessary code changes to the existing farmhouse for Guest Room use, and to sign a contract with a licensed home contractor for completion of the On-Site Resident Manager home. These next steps are costly, and it would not be prudent on the part of the applicant to proceed without first attaining the Town Board's approval. Once approval is granted it will make sense to move forward. As the plans move forward, each requirement by the code department and other entities will be met before a final "Occupancy Permit" is granted. The estimated timeframe for completion of both facilities is May 2020. I will be 74 years old by then, if it all goes to plan. It is important to note that there is a sequence that occurs with a building project. In order to get all the approvals needed for a new building as well as an existing home becoming guest rooms, the first step is the Town Board approval to proceed with a land use permit or other documents that are required. That concludes my comments and my presentation and I thank you for your time. Thank you.

Harold David Edmondson, 12414 Center Rd., Traverse City, MI 49686; I have the farm directly south, of Brys property. This is a wonderful project that is being brought before the community. I commend him for doing his absolute best. What he has done in the past looks very nice. I believe that they are one of the wineries that are clearly an asset to this community and a perfect model. I appreciate their excellent efforts, and I would like to see them move forward as fast as possible. Some of our other wineries are out of balance, and I think shed a bad light. This is a perfect example. Thank you all very much.

Manigold; *Closed public hearing and opened the regular Town Board meeting.* The minutes for the Planning Commission were late; therefore, they were not a part of the packet. Some of the Board members have asked that the Brys decision be tabled until the next meeting to have the Findings of Fact. If you have any questions, now would be the appropriate time to ask them. We had to have the public hearing because it was advertised as for this evening. If we have a Special Meeting, Walter, you will be on it; otherwise, we will meet in two weeks. The Board Members don't feel comfortable making a decision without all the facts. I just wanted you to know that.

Westphal; Walter, I have a question for you. Rather it is more a clarification. You talked about seven guest rooms on site, five in the old farmhouse and two in the adjacent building that was permitted back in 2007. Is there any intention to have any more guest rooms in the manager's residence?

Brys; No, actually the way that the ordinance reads you cannot use it for guest room purposes. Once you make the re-designation on that location, it is off the map because it is not allowed. If I read the ordinance property, you always have to have an on-site manager's residence.

Achorn; Has our Township Engineer gone through the details of this packet, including the calculations for acreage?

Hodges; No, I have not had an opportunity to review the package.

Achorn; So will you do that?

Hodges; I would be happy to take the opportunity to do that prior to your next meeting.

Achorn; Has our Township Attorney had the opportunity to review this packet?

Mielnik; I do not recall specifically if he has.

Achorn; Okay, in our meetings this past winter, a requirement was placed on everything going through the Township. It was decided that our Engineer review all documents and computations. I am requesting that the Attorney also review the application.

Mielnik; I would just like to add that all of the materials that Mr. Brys spoke of in terms of the Health Department approval as well as coordination with the County Building Department has been provided to us; we have that documentation. With respect to the Health Department, wells and septic system as well as the necessary requirements for the building permit for modifications to the existing farmhouse, have been received.

Bickle; It is not like anyone is trying to drag their feet; this is a great project. We have learned by past errors that we want to pass those two gateways. Attorney Meihn is a very quick study so he will basically take a look at it and say that everything looks in order. Jennifer Hodges has always delivered a very quick and solid work product. We want to keep things consistent with all applicants.

Wunsch; I would just add for the purpose of discussion that this passed through the Planning Commission in just one meeting, and generally we did not see any changes that were broad enough to be of interest. We talked about having the engineer look at this before passing it at the Planning Commission level because it is an unique enough circumstance to spill over into other projects.

Sanger; Is this an appropriate time to table this until the September 25, 2018 Regular Township Board meeting?

Manigold; Is that the date? Yes, our next meeting.

Moved by **Sanger** to table approval of Brys request for amendment #3 to SUP#115 until September 25, 2018; seconded by **Westphal**. **Pass Unam**

Achorn; Questions Brys as to the location of the manager's new proposed residence stating she has a very poor diagram. Walter brings up large set of plans and shows the proposed site location to Trustee Achorn.

b. Approve the 2018-L-4029 Millage Tax Rate (Bickle)

Presentation by Bickle; This is a process that we go through every year before we go into the winter tax roll. If you recall last season, we had Pilizzari park. We have satisfied that bond so we are no longer collecting for it. The other four items still remain on our tax bills. This handout shows the mileage rates. As you may remember, we raised the Fire Department to 2.000 mils; we also renewed the Police mileage and raised it to 0.2000 mils. What we are asking for is a vote of support from each member of the Township Board. Upon approval, the Township Supervisor and Clerk will sign this form, and it can be sent off to the necessary authorities at the County and State.

Moved by **Wunsch** to approve the 2018 Tax Rate Request; seconded by **Westphal**. Roll call: Manigold –yes, Bickle–yes, Sanger–yes, Wunsch –yes, Achorn–yes, Westphal–yes. Yes -7; No-0 **Pass Unam**

c. Approve 2018 Bonobo Compliance Report

Mielnik; In your packet, a report follows up on Bonobo Winery SUP#118 which was the subject of a settlement agreement in 2017. A copy is attached to the memo that I have provided. There are a number of compliance issues that were in place then. I have gone through them with the help of Christina Deeren and Gordon Hayward to document compliance in terms of that settlement agreement (exhibit E in your packet). This is documentation includes Michigan State's purchase of fruit trees and drawings that indicate how much of the area has been planted. In developing this report, I did have this reviewed by our Attorney, and he has approved it. This is before you for your review and consideration.

Manigold; It looks like you have been working with what we had agreed to, and you think they are in full compliance with what we had agreed to.

Regular Town Board Meeting
Christina Deeren, Recording Secretary
Joanne Westphal, Editor

Todd Oosterhouse, 7700 Peninsula Drive, Traverse City, MI 49686; I just wanted to say thank you for the opportunity to work with you to get this up where it needed to be. I know it has been a long haul, but we did and I appreciate all the effort by everybody. Thank you.

Manigold; I think the appropriate thing to do would be a motion to receive the settlement agreement document and file it.

Moved by **Wunsch** to see the settlement document as received and file it; seconded by **Bickle**.

Roll Call; Sanger- yes, Achorn – yes, Wunsch – yes, Manigold – yes, Bickle – yes, Westphal – yes. Yes – 7; No-0 **Pass Unam**

d. Continue Discussion of the Personnel Policy Handbook (Ditz)

Bickle; Should we consider doing Citizen Comments prior to hearing this?

Manigold; I thought we were just going to set a date for this.

Westphal; Brad and Marge had specific questions regarding this, so I forwarded them to Chelsea Ditz.

Ditz; I apologize for being late. My name is Chelsea Ditz, Associate Attorney with KellerThoma Labor Counsel. There were several different questions but the bulk of them had to do with **exempt** verses **non-exempt** employees. One of the issues that we talked about at the last session was whether a review of the proposed personnel policy documents by your pension providers, John Hancock and Voya, has occurred, and the answer was no. And then whether there could be references to the plans in those documents. [Editor's Note: Attorney Ditz is referring to the two new versions of the Personnel Policy Handbook that is before the Board for purposes of replacing the old Personnel Policy Handbook (2013), and whether the pension providers have reviewed the documents. She thinks that is a good idea, but she refers to Peterson-McGregor, as our human resource provider. Actually, Burham-Flowers is the service provider for pension-related contracts]. The larger issue was the status of the **exempt** versus **non-exempt** status of the employees, and what determines this. An **exempt** employee means that a person is not subject to overtime, whether he/she works 40 hrs/week or 70 hrs/week. You are subject to the same salary. The Township may determine that you want to provide overtime; you may, but you are not required to do so. Being a **salaried** employee does not necessarily make an employee **exempt**. There are two different categories of employees in the Township that may be an exempt employee; these would be an **executive** or **administrative** employee. An **executive** exemption requires that the employee supervise at least two full-time equivalent employees. Looking at the Township employees, there are very few employees that supervise at least two full-time employees. For example, the Fire Chief supervises the three full-time firefighters. In addition, the **executive** employee has to have the ability to bind the Township and make executive decisions that can be subject to Board approval, but they can have general authority and ability to exercise their discretion. Once again a very strong example of this would be the Fire Chief, who has the ability to run his department and make decisions for his department. The main things have to come to the Board for approval, but he makes decisions on a daily basis in terms of the operation. The **administrative** exemption is a little different and a little more complicated. Joanne provided me with the job descriptions for the employees. There are some questions that I have after going over them. This may not be the best opportunity to go over these. In terms of whether or not they are exercising independent discretion in determination and whether or not they have the ability to bind. It may be that they do not in some of the job descriptions which makes me think that they have more discretion, so that is open for review. In order to qualify under the **administrative** exemption, the employee has to meet at least two to three of these criteria determined to be "independent discretion criteria" as outlined in the Federal Regulations. I have a binder with all that information. Essentially like I said, it goes towards a decision that binds the Township; the authority to enter into a contract without approval; and/or to have the discretion to deviate from policy as needed in

order to accomplish the goals of the department. There are a couple of positions that may need a little more scrutiny but in the whole, looking at the job descriptions and these exemptions, the Township has very few employees that would qualify as **exempt** because of those requirements.

Manigold; That was the biggest question that came up.

Ditz; Yes.

Manigold; From the employees who is exempt and who is not. We tried to get into that on the phone with you the last meeting, and it was difficult.

Ditz; There are a couple of questions that I still have, so I am going to speak to Joanne about that and potentially we can figure this out--specifically to what their job duties are, but the majority of the employees would qualify as **non-exempt**.

Westphal; Again, **non-exempt** means?

Ditz; **Non-exempt** means that the employee is subject to overtime if they have worked over 40 hours a week. The employees here in the Township Hall are not scheduled to work a 40 hour work week because of the four day work week. Currently, you have a 37.5 hour work week so they could work an additional 2-2.5 hours up to the 40 hours at the regular straight hourly rate; then anything over that would require you to pay overtime at a one and half rate or they could bank it as compensatory time, which I believe that you do currently. Anything not subject to this would then have to be paid at the one and half times the rate of pay. This does have to be compensated to the employee at any time of separation by either retirement or if someone is terminated. If an employee dies, the money is owed to their significant other.

Manigold; The other issue that was brought up had to deal with insurance, but I do not believe that you deal with this. It was the cafeteria plan.

Ditz; That would be a question for your health insurance provider in terms of the vendor that you utilize.

Bickle; That was it--basically the exempt verses the non-exempt so that we understood the general scope of it. This is something that we will have to explain to the staff.

Manigold; In an attempt and we are all here except for Warren is to meet with all the staff and have a joint meeting to go over this information. I was hoping to set that meeting date at our next Tuesday meeting we will do Brys and then the rest of the meeting will be dedicated to this. It is kind of hard to work on a Personal Policy in a general meeting so we need to dedicate a block of time.

Bickle; Is it your thought Rob that we will have the staff here as well at that meeting?

Manigold; Yes, I would hope so. Maybe we would have to meet during the day so that the staff could attend.

Bickle; We will have to take a poll as I know some of the staff have other obligations after 5 p.m.

Achorn; Per our current policy, if we require employees to come to an after-hours meeting, we must pay them.

Manigold; We do have Warren that we have to deal with on his attorney schedule. Thank you very much. We will try to get the next meeting scheduled as soon as we can with staff so that we can move forward with this.

Westphal; Is it the intent of the Board to have Chelsea at the next staff/Board meeting?

Achorn; Perhaps we need Peters McGregor there, so they can provide us with a sample or what their research says about the cafeteria plan.

Bickle; Let's find out what would be mutually agreeable to everyone that is going to be impacted by this new policy, and get them in a room and go through it. You are going to need your experts there in insurance and in Labor law to answer questions that we do not know. So let's find a time and a date and we can fill in the attendees at that point.

Wunsch; That is one of my number one concerns is making sure that we are offering competitive benefits so bringing in our insurance vendors would be really helpful.

Bickle; Even if we have a Skype session, we have all of this technology available so we might as well use it.

Ditz; I am up in Bellaire for the next couple of days so this worked out perfectly.

Achorn; In one of our prior meetings Joanne, you mentioned that you had a report from Baird Cotter & Bishop that showed some sort of future cost analysis of our personnel; do you have that report that we can share with the Board.

Westphal; It's not here right now.

Achorn; No, can you share with the Board in preparation? Also Isaiah mentioned something about competitive; are we competitive in our Personnel Policy Manual? I would suggest that we check with some of the other Townships that are in our surroundings to see what is in their Personnel Policy Manuals.

Manigold; We will get a consensus of when we can have another meeting and we will include you, Chelsea, and Peterson McGregor in that. Thank you again.

Sanger; Chelsea, I understand that we do have nine employees that would qualify as **non-exempt**, but that is not the point. The payment mechanism by the Township is by and large all salary. In other words people are paid a salary. When we met at the next meeting, would you help us to understand typically in a **non-exempt** environment, how we pay people **hourly**. If you would be prepared at our next meeting to help us understand what paying our people both as **non-exempt and hourly** looks like, that would help. My concern is the Personnel Policy Manual states daily working times. We need your help to understand our options, so we do not automatically re-classify any of our **salaried exempt** employees as **salaried non-exempt**. We also need to be careful that we are not too specific on our working hours. Secondly, I would like to fully understand in the **salaried paid environment** for a **non-exempt employee**, the overall time calculation. Thank you.

Westphal; Just one more clarification; I want to make sure I understand this. Salaried exempt administrative is when someone has two to three employees working under them and independent discretion criteria, which means they can enter into a contract independently. They have to meet both of those conditions Administrative salaried exempt.

Ditz; It would be under the **executive exemption** with the two employees; the **administrative exemption** requires that the majority of work be clerical in nature and running the operation. So you wouldn't have someone that is out in the field, for example. I was giving different examples of what your particular employees would fall under.

Westphal; With this particular situation, there are three officers on the Board; none of us can enter into a substantive contract without Board approval nor can we deviate from policy without Board approval. So that would eliminate us.

Ditz; That is why we need to talk about this more.

Manigold; Ok, Thank you.

e. New Precinct #2 voting location – Congregational Church, November, 2018.

Manigold; This was a request from Nancy Heller to have this item removed from the Consent Agenda and placed under Business (request read by Manigold). As an explanation, we have been working at the Fire Station and we are asking people to vote in a different location. [Editor's note: The meeting room at Precinct #2 Fire Station is being converted to overnight accommodations for the fire fighters to give 24/7 service to the southern part of the Township. This conversion requires that a new location for voting for the November election be found.] What I am wondering is how are we going to get the word out to the thousands of people that have been voting in that Fire Station for the past 30 years?

Sanger; I thought I heard somewhere that you were going to mail out new voter registration cards.

Westphal; That is exactly what we are in the process of doing. We have contacted Printing Systems who handles government documents for ballots for new registration cards. [Editor's Note: this is for

Precinct #2 voters only]. They will actually place the red lettering “polling place has changed” on a new registration post card that goes out to all of the registered voters in Precinct #2. There are 2700 registered voters, and it will cost us the post card and stamp. We knew that we had to do this relatively quickly, and we needed to move forward. The question was where was an alternative location? I tried the Unitarian Church, but they could not handle the parking situation; the only potential polling room with enough room was already set aside with their other scheduled annual classes. I then tried the Congregational Church. This was really the next location where they would have a large enough room/hall, parking, and proximity to the old Precinct #2 polling station. The Congregational Church had to check with their elders to approve such a use. Someone suggested the school but with the new safety restrictions on people coming and going to school grounds today, in general, that location was virtually impossible. That leaves us with nothing south in the Precinct #2 area that could handle a polling place. So unless we want to again have the Fire Department men move out for that day which Fred would prefer not to do, then the only option was the First Congregational Church. Fortunately, their elders have agreed to offer us a suitable polling place in their music room. I went down and looked at it. It is large enough, and it could handle the turnout in our Township. They are also not charging us for this use, because they feel this is a public service and they want to support the community. They also are willing to extend the use of the polling place for the 2020 election. Those are three really positive things about this location. However, there has been individual resident that complained that she had read, seen or heard something that one of the elders had evidently made a statement that was anti-Muslim. I have not been able to find anything on this, but it was brought up to one of the election workers at the last election so they relayed that to our office; we have not been able to verify it. Other than that, it's the only objection that I have heard. We have started the wheels in motion to let people know that it is likely that this will happen, but we have not bought the cards yet although we have bought the stamps. it's really a matter of whether or not we move forward and approve this.

Sanger; Would this be for the November election?

Westphal; Yes.

Sanger; The other question that I have seeing that Nancy is not here, do we know any reason why Nancy wanted this on the Business part of the regular agenda; were there any concerns she had?

Manigold; I do not want to speak for her. We had been talking about having the firemen go into the bay for that one day, but apparently this is a different solution. Any further discussion on this? We would have to do an approval; we will also probably have to amend the budget for postage and everything if we are going to make the move and to stay ahead of the absentee voters. [Editor's note: Absentee voters are not affected by this move; only voters who appear at the polling station would be affected. However, every registered voter in Precinct #2 would have to get a new voter registration card because it lists the polling location on the card.]

Sanger; It makes sense to me not to disturb the Fire Department operation. You would have a 24 hour disturbance from the time you set up the polling place. Obviously as you know, there would be two individuals that will be sleeping there at that time. Moving equipment in and out is disturbing and we could have a major fire or emergency so I think this alternative makes sense. I just wonder from the standpoint of the cost, could we do one large general mailout to everyone on this kind of thing, or does it really have to go to individual names?

Westphal; They have to have an updated registration card anyway, because it states where the polling place is.

Sanger; That's right.

Westphal; The cost would be there anyway. The notification could go on our newsletter which is coming up on October 1. I would call for getting information on the front page of the newsletter for the new polling place, if we are going to approve it. I think for that getting the cards out for our absentee voters who do not go to the Precinct, is a moot point. The other voters that do go to the Precinct #2, do need to know. We have enough time to get this message out on the website, through the cards, and also in the newsletter, so that was our strategy. We could also buy some directional signs that could place near the church that says “polling place” with directional arrows. I think that would work out as well.

Moved by **Wunsch** to approve the First Congregational Church as the Precinct #2 polling location for the November election; seconded by **Westphal**. **Pass Unam**

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Manigold; I also suggest using Jane Boursaw with some of the advertising for this new polling location. I just do not want older people coming out in November, no matter what the weather, only to find that they are at the wrong place.

f. Reappoint members to the Planning Commission and Zoning Board of Appeals (requested by Manigold to add item to agenda)

Manigold; MTA has advised that the extension of the terms for two people on the Planning Commission and two people on the ZBA for one year is not going to work. I am asking the Board to make a motion to approve Monnie Peters and Laura Serocki to the three year term rather than a one year term. On the Zoning Board of Appeals Matt Cowall and Bernie Soutar for a three year term rather than a one year term or else we can go through an interview process.

Westphal; I think that you first have to rescind the Town Board vote for the one year extension.

Manigold; We could do that.

Bickle; How would the interview process work, Rob? I understand this is an option.

Manigold; We would normally interview. Their terms are expired. We would have to put an ad in the paper and bring people in, to conduct interviews to appoint.

Achorn; I think that would be a good idea.

Sanger; I think now that we have a Planner on board that is a very exciting way to attack this.

Manigold; My only concern, Christina, is do we have Zoning Board of Appeals this month?

Deeren; We do yes.

Bickle; Can it be rescheduled?

Wunsch; They are seated until you replace them.

Bickle; I understand what you are saying.

Wunsch; I believe that you serve on the Zoning Board of Appeals or the Planning Commission until you are replaced by the Board.

Bickle; We went through this before. There was that gap. I believe a couple of the sitting commissioners, I forgot which ones but I believe in the Planning Commission, that were in-seat until replacement was dually nominated, elected and/or appointed.

Deeren; I do have one change on this. John Snow did write a letter that stated that he no longer wishes to be a ZBA alternate, so we will have to replace him.

Manigold; What I am understanding is that we will put an ad in the paper and interview for the two seats on the Planning Commission and the two seats on the Zoning Board of Appeals.

Westphal; First, you need to rescind.

Manigold; I would entertain a motion to rescind the motion of July 10, 2018, at the Regular Township Board Meeting where we appointed Monnie Peters, Laura Serocki for a one year term to the Planning Commission and Matt Cowall and Bernie Soutar to a one year term to the Zoning Board of Appeals.

Moved by **Westphal** to rescind the motion of July 10, 2018, at the Regular Township Board Meeting where we appointed Monnie Peters, Laura Serocki for a one year term to the Planning Commission and Matt Cowall and Bernie Soutar to a one year term to the Zoning Board of Appeals; seconded by **Bickle**. **Pass Unam**

Manigold; I am just concerned about the Zoning Board of Appeals do we have a week or two?

Deeren; We have a meeting this Thursday, September 13, 2018, and again on October 12, 2018.

Wunsch; They can serve until reappointed or replaced.

Deeren; It just continues.

9. Citizen Comments

Monnie Peters, 1425 Neahatawanta Rd., Traverse City, MI 49686. I am glad that you are finally doing the Commissioner and Board appointments properly by having us come before you, advertise it, and do the proper three years rather than do a one year and be faced next year with four people on the Planning Commission and maybe all three people on the ZBA. You should also spend the time to go back through and read Ordinance No. 42, relating to the Planning Commission. The ZBA is covered

under the zoning code. I am not sure why ZBA gets under zoning code and Planning is under a certain ordinance, but I think it is how the various State Enabling Acts have set these bodies up. There may be other things that we are not following carefully enough that we should look at. I know that I am going to go back and read it; I was given that when I became a Planning Commissioner, and I haven't read it in three years. It is probably good that we all read it, and make sure that we are following the rules that we have passed. When we created the ordinance, we don't just say "oh we would like to go this way, this year, rather than follow the set rules". I say that it is right that we serve until replaced. But you are now saying that we want to go through the process of looking at new ZBA people, and the two of us that are up for PC. I think that is exactly what you should be doing. Thank you.

Mielnik; Just a couple of comments. The Planning Enabling Act was updated in 2008, and there a number of areas that the new Zoning Code up-date is in the process of being worked on. There are some things that maybe absent like a set of rules and procedures for the Planning Commission and how they conduct meetings. That is another element that just came to light. There is also a need to elect officers here shortly for the Planning Commission, and I understand that they typically do it with the nominated candidates. It will be important for us to get some closure on this.

Sally Akerley; Township Assessor; I would like to address the Board regarding comments that were made at the last Township Board meeting. There was a decision to seek bids for the PDR Monitoring contract. On that agenda for the evening was the renewal of the contract between Peninsula Township myself, Sally Akerley and Christina Deeren. At the Clerk's urging, it was recommended that the contract go out for bids for three reasons. One, the contract being over \$1,000.00 warranted the bidding process; two, Christina's recent injury; and three, a new part-time field appraiser in the assessing office. Regarding the bid, it is not Township policy to bid for this contractual amount. Regarding injury, I felt the discussion regarding Christina's injury were invasive and unfair. Nobody asked us how we planned on segregating the duties of that contract in order to get the job done; instead assumptions were made. Christina is one of the hardest working individuals I have ever met. Her drive and work ethic are beyond reproach, and she would never accept a project without knowing she should complete it. Regarding the part-time help in assessing, the Clerk, by referencing our new field appraiser, made the distinct impression that I was overloaded and unable to complete my work. She worried that the contract would only add more work and that did not make logical sense to her. I take great offense to that suggestion on two counts; first being the arrival of the new field appraiser position. The PDR work was to be performed outside of regular business hours. Secondly, I have been employed with this Township for 15 years, and in that time I have singularly managed the assessment administration of a very large, complex and high intensity community. I have forged positive relationships and have assisted taxpayers in a variety of capacities and always maintained a courteous attitude. I performed the processing of eight distinct special assessment districts, encompassing fourteen resolutions before this Board, and sixteen public hearings, and a multitude of newspaper ads, all without a hitch. All this occurred while preparing the annual assessment roll and holding Board of Review hearings. Not many people can do what I do. On the recent State Tax Commission Audit of Assessing Practices, I scored 100% on behalf of myself and this municipality. Only 10% of Townships statewide can claim that. To suggest that I am incapable of handling any work load is offensive to me. This is a letter that I drafted in response to the last Town Board topic. I timely placed this letter in the Clerk's Office for submission to your Town Board packets.[Editor's note: the long standing policy in the Clerk's office has been to set the agenda by Wednesday, noon, before the next Town Board meeting on the following Tuesday evening. This means that packet materials should be ready for duplication by noon on Wednesday. Occasionally, significant pieces of information to a Business item on the agenda are not available until Thursday; in that case, an extension is allowed but the drop-dead submittal time is set for noon on Thursday. If the material for packet is not submitted in time; the item is taken off of the agenda. In Sally's case, her correspondence came in on Thursday, at approximately 2:30 pm. It was then placed in the correspondence folder for the

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next Town Board meeting]. It did not arrive in your Town Board packets, it is absent. So I am going to read this letter now, and when I am finished I am going to file it with the Recording Secretary, and asked that it be placed in this evening's written minutes. This is one page; it will be brief. Akerley reads the following correspondence:

WRITTEN CORRESPONDENCE- To be submitted to TB meeting agenda 9/11/18

At the most recent town board meeting, a singular town board member expressed some concerns about a business item – the annual PDR Monitoring Contract. Because those concerns were largely without merit and based on a faulty understanding of facts, I felt compelled to address those here, in writing.

The Contract:

The contract was to be renewed from the previous year- utilizing the same staff under the same terms. Per the contract, Christina Deeren (the Township Zoning Administrator) and Sally Akerley (the Township Assessor) were to monitor all PDR properties for a specified sum and perform the work outside of Peninsula Township's regular business hours.

The Concerns:

There was a concern that the assessor does not have enough time to perform the monitoring duties during regular business hours and a fear that the zoning administrator, having sustained a recent injury, would likely be unable to perform the required duties safely. These concerns could have easily been allayed through conversation with staff or the reading of the contract.

The Response:

To reiterate, the contracted work was to be performed outside of regular township office hours. To reference recently hired assessing staff as grounds for ineligibility is misleading, at best. As our township grows and state required responsibilities expand, it becomes necessary to address those with proper staffing levels. The PDR monitoring contract was specifically formulated to prevent a diversion from regular township duties.

While invasive, the medical concerns expressed regarding the Zoning Administrator had no grounds, as no field work was to be performed without proper medical release (which has been since then received). The monitoring duties contain two components and they are roughly equal parts: physical site inspection versus paper processing, mailings and phone interviews. Those dual work requirements being performed by a team made the medical issue a NON-issue.

Conclusion:

The Peninsula Township "staff" model of PDR monitoring has worked well. Staff is familiar with the properties – both owners and the distinct parcel features as we deal with them on a daily basis. Staff can easily annotate the BS&A database with pertinent changes and observations. Staff is keenly aware of changes which assure all acreage is properly monitored.

Signed: Sally Akerley and Christina Deeren

Akerley; There is no justification to exclude this document from the packet. I spoke to the Clerk about the PDR topic the day after the meeting. In response, the Clerk drafted a letter dated: 8/31/18, and

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disbursed it to this Town Board, this Personal Committee, and likely others. In my opinion that action is retaliatory in nature; the substance and characterization portrayed in that letter are highly inaccurate and wildly misleading. I would expect a remedy to this situation in the form of an apology and a formal retraction. I have presently begun conversations with legal counsel regarding claims of defamation and false light. I have been advised to make my grievance known to this Town Board, both publicly and in writing. In conclusion, I believe this Township should encourage a working environment where there is a free flow of ideas and communication, and not one where an employee is concerned about voicing an opinions and concerns. This creates a hostile work environment where employees are concerned that having their reputation tarnished, if they do not agree with their superiors or elected official. It hinders progress and denies growth. I have historically enjoyed an open avenue of communication in this Township with the co-workers and elected staff, and I sincerely hope that this can continue.

Harold David Edmondson, 12414 Center Rd., Traverse City, MI 49686; On this PDR contract issue are they claiming to be independent contractors or are they working under the Township as outside of work.

Manigold; Outside of work, but I have been told that we are going to be served with complaints tomorrow, so I am not going to make any statements for or against. Anything you would like to say Dave, put it on the record.

Edmondson; I guess what I want to know is if I am going to someone else's property, I have to have liability insurance. Do they? Or have they had it in the past with Gill and the gals last year.

Manigold; I will have to look at that.

Edmondson; So you don't know.

Manigold; I am not going to make any statements.

Edmondson; That's all I need to know.

Mary Swift, 13956 Peninsula Drive, Traverse City, MI 49686; I am going to start part of what I was going to wait for the Attorney because what just happened leads into part of why I needed to be here. There is a huge conflict of interest going on in the Clerk's Office. Mr. Edmondson stood up here earlier in the evening talking about the PDR contracts that they own, he and Joanne Westphal, five of them, and yet Joanne is the one finding fault with the contract with the employees. I am sorry but I am confused. He raised the issue of conflict of interest with some of you that have PDR properties, and yet Joanne is the one raising these issues with the staff outside of work. So I am just going to tell you tonight as this will come up again when the lawyer is here from me because something is broken in this Township. There is conflict of interest going on, and it needs to stop.

Christina Deeren, Director of Zoning, Peninsula Township; At the August 28, 2018, Regular Township Board meeting under Business agenda item f – approve contract for the annual monitoring of PDR properties, Clerk Westphal opened the discussion regarding my personal injury. I was appalled that this issue was being discussed openly at a public meeting without my permission or consent. My health issues are personal to me. Furthermore they are protected by Michigan Employment laws which should not have been disclosed or discussed publicly. The Clerk's statements implied that I could not do the job, and in my opinion were the basis of why this was opened up for bids. The same contract was approved in June of 2017. It was listed under the Consent Agenda and was approved without Board discussion or questions from any Board member. The cost of the contract was for the same sum as set in the 2018 agreement. The Clerk's statements are in violation of HIPPA and my privacy rights. I have been advised to seek legal counsel regarding this matter, and I too have been asked to make a statement regarding this issue. Thank you.

Sally Akerley; Regardless of who is granted the PDR Monitoring contract, these reports are due by year end. The deadline is coming up fast, so this Town Board needs to make a decision on what you are going to do. We felt that we were qualified candidates and individuals for the job because the ordinance says: “The Township will contract with a recognized and legally established non-profit Land Conservancy or other experienced qualified individuals...” At the last Town Board meeting, this Board decided to seek bids within two weeks, so that the Board could make a decision. The PDR program and the properties that have been willingly encumbered are what make this Township beautiful and unique. We need to take care that they are properly monitored. When the decision was made to go out for bids, the Town Board sought expediency in the publishing advertisements for the bids. The ad has been published but there has been no submission date. The PDR was not an agenda item tonight, so I am concerned and curious when the matter is going to be addressed, so we or whoever is entrusted to perform this work gets it done in a timely fashion.

10.Board Comments

Westphal; First of all, there has been an interested party in pursuing this monitoring--the Regional Land Conservancy. The Conservancy has contacted the Clerk’s Office, and has asked for the necessary information to submit a bid. They are aware that this is a very short fused contract. It needs to be done in a timely fashion, because they have done it in the past--before the Township decided to expedite things by hiring its own people, who were former employees which I personally think is a conflict of interest between the Township and the applicant. These compliance examinations for field studies are to ensure both sides of the covenant, i.e., the contract, are being met. You can’t have your own people doing a compliance check. They are part of the Township. Furthermore, I attended a Human Recourse Audit workshop just a week and a half ago; one of the attorneys that was presenting information at the audit clearly said when I raised the question of whether or not individuals in a Township can serve as independent contractors to do work for the Township, the answer was absolutely not, unless they are independent contractors who have multiple employers hiring them to do that type of work, and they have liability insurance for doing the work. If they don’t, they then need to come back under the umbrella of their employment and be paid at the 40 hour breakout, at time and a half for the work that is being done. That is how the law interprets whether or not an independent contractor is independent or not. The issue here, the central issue, is whether or not they are independent contractors. If they are employed by the Township, they are a part of the Township structure that is being examined for compliance in an equal manner to the applicant. In other words, the Township has to observe the rules and regulations of the contract language as well as the applicant. Both sides benefit from having an independent, non-profit contractor surveying and verifying that neither are violating their contract. That is the central crux of the matter. The issue that it has been done the last three or four years by people that were once associated with the Township, or in this case were hired last year to do this work, is against the basic premise under which those contracts were established and regulated within the Township. We must manage our policies so that both sides are held accountable for meeting the terms of the contract. That is why we cannot hire our own staff, period. It is just that simple.

Now I would like to make a statement:

“Dear Township Residents and Esteemed Town Board Members:

It is exactly two years ago to the day that I attended my first Town Board meeting. At that time, the tasks before us seemed daunting, but there was an optimism that with team work a new day was dawning. And it was. Over the past 2 years, as a Town Board we have made significant hires in the persons of Christina Deeren, Zoning Administrator; David Sanger, Code Enforcement Officer; Fred Gilstorff, Fire Chief; and

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Randy Mielnik, Director of Planning. Where we found offices in disarray, we reorganized thousands of documents while we streamlined payroll procedures and improved accounting practices. Just last month, for the first time, the treasurer's and clerk's offices were able to reconcile their books, an important and essential fiduciary responsibility.

But we have not met with success in all areas. Over the past two years, strains within and outside of the team, have resulted in a subtle, erosive, disregard for maintaining the integrity of our Code of Ethics, Township Ordinances, and public policy. In turn, it has affected how we conduct ourselves and the business of the Township. Today, a lack of civility and decorum exists in the workplace. I personally have experienced bullying, insubordination, and intimidation. I have been shouted down in staff meetings and accused erroneously of acts I never committed or authorized. Recently I was affronted and threatened by a staff member in my own office because I believed that a Township contract should go out for bids. Behaviors such as these are debilitating and violate my sense of propriety, well-being and personal safety. These perceptions, in turn, make me less effective in challenging the *status quo* of questionable practices in the Township, or in fulfilling my statutory responsibilities as the Township Clerk. As a professional of 45 years, I cannot tolerate this set of conditions in the Town Hall. It is for these reasons that I tender my resignation as Clerk of Peninsula Township, effective December 31, 2018.

With this complete statement of resignation, I will have no further comments on this matter, and I recommend to the Town Board that this meeting be adjourned.

Respectfully submitted,
Joanne M. Westphal"

Manigold; Well we will adjourn when we are ready to adjourn. Are there any more Board comments? I hesitate to make any statements, and I encourage you not to either, as I was told on the way over that counsel has been hired about some issues dealing with this. I think that there is going to be a lot more coming out. I don't want anyone going on the record.

We would entertain a motion accepting the Clerk's resignation.

Moved by **Achorn** to accept the Clerk's resignation, seconded by **Bickle**.

Westphal requested a roll call vote.

Roll Call: Achorn – yes, Wunsch – yes, Sanger – No, Bickle- yes, Manigold – yes. Yes – 4; No-1 (Westphal did not vote) **Pass Unam** [Editor's note: motion did not pass unanimously.]

11. Adjournment

Moved by **Bickle** to adjourn; seconded by Sanger.

Pass Unam

Adjournment: 8:42 p.m.