

PENINSULA TOWNSHIP
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**Regular Town Board Meeting
October 9, 2018, 7:00 pm
Peninsula Town Hall
Minutes**

1. **Call to Order** Manigold called the meeting to order at 7pm
2. **Pledge**
3. **Roll Call** Present: Manigold, Westphal, Bickle, Achorn, Sanger, Wunsch Absent: Wahl
Also present: Christina Deeren, Zoning Administrator; Greg Meihn, Township Attorney
4. **Citizen Comments for items not on the agenda**
Matt Anderson, 9501 Rolling Ridge Dr., introduced himself as a candidate for the Traverse City Area Public

School, as an independent candidate for the board, and notes three other independent candidates running for the TCAPS Board—Kelly, Leonhardt, Forton.

Harold David Edmondson, 12414 Center Road, states that in inspecting the packet for the meeting, it appears that two bids for monitoring the 112 parcels have been received. One bid was for \$25,000 (Krogulecki) and the second bid was for \$57,000 from the Conservancy. This comes out to about \$230.00/parcel or \$508.00/parcel, respectively. Over the past 4 years, Township staff conducted the compliance monitoring for the PDR program at about \$5000.00, or \$45.00/parcel. He notes that during that time, the Township monitoring staff did not pick up an easement violation that occurred on one of his properties that was done by the Assessor. He was concerned about having staff monitor their own work.

Vicky Shurley, Nancy Davy, Heather Reamer, Peninsula Community Library. Shurley announced that on Sunday, October 14, the Library Board will break ground on the new community library; she invited all of the Board members to attend. She mentioned that the library still has about \$400,000 to raise on the 2.5 million dollar project. Davy thanked the Board and Community for their support in the effort. Reamer stated that Grand Traverse Construction would be doing the construction based on a unanimous vote of the Board last week. She encouraged everyone to come out to the ground breaking at 3pm on Sunday, October 14, 2018.

Sally Akerley, Township Assessor, declared that she had prepared statements that she would like to read and submit for the minutes; no copies of the statement was given to the clerk for inclusion in the minutes. She complained about Mr. Edmondson's reoccurring assertion that an illegal land division occurred on the Oosterhouse winery property leading to an easement being placed across PDR property that he owned in 2013. The easement was placed when a split occurred on a PDR parcel owned by Kermit Campbell in a transaction with Todd Oosterhouse, in order to gain access to the undevelopable child parcel. Both Zoning Administrator and Planner at the time reviewed the transaction. This division was recorded on deeds at the County Register of Deeds. She went on to state her concerns that a land transaction taking place nearly 5 years ago should not be a source of controversy today.

Mary Swift, 13956 Peninsula Drive, had a prepared statement, but this statement was not provided to the clerk for inclusion in the minutes. Swift called for the immediate resignation of the clerk, rather than the December 31, 2018, resignation date that the clerk submitted to the Board and was approved by the Board. She claimed that it was the Clerk who created the hostile environment in the Town Hall, and continues to

operate with her office without regard to her statutory responsibilities. Swift called for the inclusion of her comments verbatim in all minutes of the Town Board meetings.

Dave Edmondson, spoke again about having qualified individuals conduct the PDR compliance monitoring. He showed the map that the Assessor provided him, with an easement drawn across his PDR property. This is a violation of his PDR contract. This is the type of inaccuracy that the PDR compliance monitors should catch.

Dave Rowe, 202 E. State Street, Attorney for Akerley and Deeren. He stated that he submitted a complaint last week to Attorney Meihn on the behalf of Akerley and Deeren; this complaint is against the Clerk for creating a hostile work environment for his clients relating to the taking of meeting minutes by Deeren and the portrayal of a Pictometry presentation given by Akerley. He claimed the clerk omitted public comments, changed what people said, inserted additional information that was not stated at the meeting, and edited statements made by others to shed a favorable like on herself. He stated that Ms. Akerley gave a one-hour description of the Pictometry because the Pictometry sales representative failed to attend the meeting; the minutes refer to this PowerPoint presentation as originally posted on the agenda for the meeting. Mr. Rowe also stated that the September 11, 2018, TB meeting minutes were not posted verbatim, as recorded by Ms. Deeren, and that the clerk was denying the public of the full transcript of the meeting.

Nancy Davy, 14713 Shipman Road. I am the Chairperson of the committee that processes the Absentee Ballots for the Township. I am intimately familiar with the detailed and complex process that it entails. Anyone who thinks that someone could come in and take over the election process in short notice is tremendously underestimating the dedication and knowledge needed to complete this process. She met with the Clerk this morning to begin the preparation; this is nearly a month before the election. Election information has to go to various entities including the county and the state, and it is done with total dedication and accuracy.

Mary Swift stated that the township managed a similar situation with an election and were able to successfully conduct the 2016 presidential election. It is not imperative who sits in the clerk's office. The county clerk is more than willing to step in and run this election for the township.

5. Approve Agenda

Manigold asked the Board to approve the agenda.

Sanger said in the consent agenda, the Board tabled the minutes of the August 14 meeting until two corrections could be made on pages 6 & 8. Also a request by **Manigold** to include the verbatim discussion with Mr. Edmondson in the August 28, 2018, Town Board meeting, was made at the September 11 meeting.

Westphal responded that in checking the minutes earlier in the day, she noted that the recording secretary as requested by the Board made no changes for the August 14 2018, Regular Town Board minutes. The clerk made the requested corrections by Sanger earlier in the day and distributed the edited minutes at the Board meeting tonight. In reviewing the August 28 minutes, she found no comment from Edmondson. On examining the Stream Spot video recording for the August 28, Regular Town Board meeting, Edmondson neither gave testimony nor appeared to be at that meeting. She stated further, that at the August 14 meeting, Bickle had noted an invoice from Gordie Fraser for bill that was long overdue; at that time, Bickle had made a recommendation that the Board proceed in paying that invoice. She included those comments in her edited minutes.

Westphal asked to make a few comments about the minutes and the meeting. In talking to Catherine Mallhaupt, MTA attorney, the clerk is the ultimate recording secretary for a Township. She can delegate the responsibilities to others, but it should be with Town Board approval. The practice of Town Board approval of recording secretaries has never been commonly followed in the township. Rather at some time in the distant past, before her arrival, the clerk assumed that delegation of recording secretaries for all of the

Boards and Commissions. MTA also indicated that the Town Board has the responsibility to direct the clerk in how much or how little information is contained in the minutes. Technically, the minutes only require the actions taken on motions made by the Board and voted upon. This Board ran on a pledge of transparency, so more information is provided in this administration's minutes when compared to the last administration. The most important requirement is accuracy on what is voted upon, and by whom. This the clerk has done. Whenever possible, the clerk will review minutes of a recording secretary from any commission or board before they are publicly posted to insure that no typographical or grammatical errors are present. The edited minutes have been posted on our website because they are the most accurate.

Manigold suggested that the minutes be transcribed by Meihn's office staff for the four regular Town Board minutes in August and September, and he requested that a third party transcriptionist service cover the regular and special meetings of the Town Board verbatim for the remainder of the calendar year; Bickle seconded the suggestion. Roll call: Manigold—Yes; Westphal—Yes; Achorn—Yes; Wunsch—Yes; Sanger—Yes; Bickle—Yes. **Vote: 6-0**

Manigold asked Meihn to find someone to do this. Meihn said he has a transcriptionist service that the Township can use, and will have the task done in the next 3-5 days. He recommended that the Board set up a follow-up date for a meeting to discuss the transcripts sometime in the near future, in 10-15 days.

Bickle moved that the township Board meet in the next 10-15 days, or whenever the transcripts are available to discuss and approve the minutes; Wunsch seconded. Voice vote.

Passed unam

Westphal recommended the Town Board set policy on who should be the recording secretaries, and what should be recorded—in other words, how much detail is in the minutes. She also asked for protection of the CD's (audio), and the Stream Spot videos. She asked that the Township set policy that insures these materials are protected in the future.

Bickle makes motion that Meihn provide recommendations for recording, documenting, distributing the minutes/materials in the future as policy for the Board. Westphal asked to amend the motion to include "protecting and preserving" as a part of the policy statement. **Bickle** accepted the amendment. **Sanger** asked to amend the motion to include "in compliance with the Michigan Open Meetings Act of 1976". Bickle accepted the amendment.

Meihn provides the following motion for the Board that incorporates the Westphal and Sanger amendments. It reads:

To have Attorney Meihn present at the next Board meeting what the law requires in terms of minutes and what are the best practices to insure the minutes are accurate, transparent, and complete, plus the minutes should be compliant with the Open Meetings Act of 1976, and there is a discussion for the preservation of those minutes.

Bickle accepts Meihn's motion; **Wunsch** seconds the motion. Voice vote.

Passed

unam

Wunsch moves to accept the agenda; **Bickle** seconds. Voice vote.

Passed

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—September 11, 2018 Regular TB meetings 7pm,

b. Reports and announcements (as provided in packet)

1. Officers

- a. Clerk—New Voter registration cards going out for Precinct #2 voter due to change in voting location to First Congregational Church on Nov 6, 2018.
- b. Treasurer's Report

2. Staff

- a. Planner's Report for October, 2018
- b. Deputy Sheriff's Report for September, 2018

e. Correspondence

- a. Greg Burroughs (Peterson McGregor) on sub-contractors & liabilities
- b. Agreement with First Congregational Church for new Precinct #2 Voting Location
- c. Catherine Mullhaupt (MTA Attorney) on the Michigan Zoning Enabling Act relating to Board Member selection

d. List of Invoices (recommend approval) **Bickle** said that we approved the invoices at the last meeting; the Gordie Fraser invoice was approved at the last meeting as well.

Bickle moved that the consent agenda be approved; **Wunsch** seconded. Roll call: **Manigold**—Yes; **Westphal**—Yes; **Achorn**—Yes; **Wunsch**—Yes; **Sanger**—Yes; **Bickle**—Yes.

Vote: 6-0

5. Old Business

a. Review of bids and discussion of PDR Monitoring, including Town Board Subcommittee Report

Manigold reported that the Town Board received two bids for the PDR compliance monitoring from the Land Conservancy and Kevin Krogulecki. Land Conservancy letter estimated the work to run between \$37,000 to \$52,000; Krogulecki's bid was \$25,000.00. Some discussion of conflict of interest occurred with no Town Board member recusing himself or herself.

Wunsch, Sanger, and Achorn described the subcommittee's activities in the September 28, 2018, 2 pm meeting. The first was to determine whether staff had a conflict of interest in doing the PDR compliance monitoring work; the second activity involved determining how the monitoring shall be conducted. **Wunsch** said the subcommittee concluded that Township staff were qualified to do the monitoring and presented no conflict of interest. **Sanger** read the four major recommendations that the subcommittee developed, as were presented in the subcommittee report of October 3, 2018, and posted in the packet addition to this meeting. All three subcommittee members recommended that a two-tier monitoring procedure would insure the compliance with the conditions of the easements would be met.

Discussion followed among various Town Board members concerning the pro's and con's of the monitoring procedures, the types of monitoring to be conducted in-house and out in the field, monitoring standards, conflict of interest in having Township staff do the field work, and the qualifications of monitors to conduct the compliance monitoring. Discussion also included compensation for doing the work. **Meihn** suggested that if the staff performs the work, their job descriptions would need to be expanded to do the work, and compensation should then reflect the complexity of the contract and the difficulty in doing the on-site inspection. **Akerley** recommends going back to the subcommittee and having the two staff members provide a description of the work to be done so compensation could be accurately estimated. **Achorn** suggests additional compensation for the expanded work to be performed by staff in the monitoring. **Meihn** offers the following to the Board for a motion: to set the structure up for both **Akerley** and **Deeren's** job descriptions to be expanded and the duties of accumulating this information, whatever it is, to be approved and that there be a meeting with the committee to determine what that compensation amount would be; the is one motion. The second motion for that second tier, [would be] whether that 2nd tier go out and run with it

as Manigold described or audit it; whether that person is an organization or individual; and the committee be charged with contacting that individual on what would be the cost for taking on the project at that point.

Sanger moves **“that the job descriptions for Ms. Akerley and Ms. Deeren be expanded to include on-site monitoring of the PDR contracts with the individuals”**; Bickle seconds. Roll call vote: Sanger—Yes; Bickle—Yes; Manigold—Yes; Westphal—Yes; Achorn—Yes; Wunsch—Yes.

Passed 6-0

Sanger moves **“that the subcommittee identify the requirements for a high level audit of the PDR conservation easements, identify qualified individuals, contact them, and report back to the Town Board with their findings”**; seconded by Bickle. Roll call vote: Bickle—Yes; Manigold—Yes; Westphal—Yes; Achorn—Yes; Wunsch—Yes; Sanger—Yes.

Passed 6-0

b. Discuss Gordon Hayward Contract (discussion may follow the closed session)

Manigold requests formalization of a contract with Gordon Hayward to work 8 hours/week or 16 hours/pay period; he will be assigned to the Planning Department under the supervision of Manigold. He would be compensated at his normal rate. Discussion on how the compensation will occur—i.e., independent contractor or some other means? Meihn suggests a part-time employee where taxes will be taken out of his pay, or a formal structured agreement with him where he takes his taxes out of his paycheck; he is charged for his space in the Town Hall; and he can take other work from other sources. In other words, he would be an independent contractor. Westphal expressed concern that the Board continues to advance Hayward’s job into the future, without addressing the promise to our current fulltime planner that we would hire an assistant planner for his department.

Bickle makes a motion that **“Attorney Meihn draw up a document for contract labor of Gordon Hayward not to exceed 8 hours of work per week; 16 hours cumulative for two weeks”**. Wunsch seconds. Roll call: Manigold—Yes; Westphal—Yes; Achorn—Yes; Wunsch—Yes; Sanger—Yes; Bickle--Yes.

Passed 6-0

9. New Business

a. Fire Department vehicle request for 2018-2019 and ISO request

Gilstorff, Fire Chief, announced the successful approval of moving the Township Fire Department forward on ALS status for emergency medical service; he received approval of application to the state last week, and he wanted the Township’s residents to know of this important step in getting enhanced medical services to them.

Gilstorff was requesting the purchase of two replacement pick-up trucks for the Fire Department. He profiled the current vehicles and their need to be replaced due to age and increasing maintenance costs. He also requested that the Board approve that he go out and solicit bids for a new fire engine; he cited the age, obsolescence, and maintenance costs of the existing fire engine. He outlined the features and costs for all of the proposed vehicles.

Bickle moved that the Board support the Fire Chief’s request to purchase of two pick up trucks for the Fire Department with the specifications and costs described; Westphal seconded. Roll call: Manigold—Yes; Westphal—Yes; Achorn—Yes; Wunsch—Yes; Sanger—Yes; Bickle--Yes.

Passed 6-0

Bickle moved that the Fire chief go out for bid of a new fire engine with the specifications outlined in the packet; Westphal seconded. Roll call: Wunsch—Yes; Sanger—Yes; Bickle—Yes; Manigold—Yes;

Westphal—Yes; Achorn—Yes.

Passed 6-0

Chief Gilstorff requested approval of hiring ISO to assist the township in documenting the fire department's ability to contain fires in the township. ISO will be conducting a lake study to see if the fire rating can be lower to levels that will benefit all homeowners on the Peninsula. ISO has successfully accomplished this lower of insurance in Long Lake Township. The cost is \$20,000 for the contract to do the ISO study.

Achorn moved that the Towns Board approve the Fire Department contract with ISO; **Westphal** seconded. Roll call: Westphal—Yes; Achorn—Yes; Wunsch—Yes; Sanger—Yes; Bickle—Yes; Manigold--Yes.

Passed 6-0

b. Closed session pursuant to MCL 15.268(e) for discussion with Attorney Meihn representing the Township in matters relating to litigation and personnel issues.

Meihn stated that the Town Board did not need to go into closed session. He proceeded with giving an update on the 81 litigation and the continuing investigation relating to the complaint of the Clerk.

9. Citizen Comments

Mary Swift stated that her comments at an earlier Town Board meeting were not personal in nature and should have been written into the record verbatim. She also said that the length of the time that the Clerk gave for her resignation was inappropriate because her job is clerical in nature, and she is not a CEO of a corporation or a president of a university.

10. Board Comments

Manigold reported that the clerk's position has been posted. Work has begun on the drainage issues down in Old Mission. Met with the DNR on Kelly Park to improve the various aspects of the park. **Sanger** wanted to acknowledge the effort of the Fire Department on its rescue operation of the drowned kayaker; the Township received high compliments on the Fire Department rescue boat by those men who were on the operation. **Westphal** read a letter from the Deputy Clerk, dated October 8, 2018. "Dear Ms. Jo: I have enjoyed working with you over the past few years. I have learned a great deal with you, and I think we have accomplished many positive things in organizing the office and making improvements. We have been a team, and so with your resignation, the team is breaking up. However, a new opportunity has come about for me as well. As the saying goes, 'as one door closes, another door opens'. Do to this new opportunity, I am giving my notice that my last day will be November 8, 2018. I would like to thank you, Jo, and the Township Personnel Committee for hiring me, and the chance to work and serve the residents of Peninsula Township. Respectively, Brenda DeKeiper, Deputy Clerk"

11. Adjournment Wunsch moved to adjourn; Bickle seconded.
unam

Passed

The meeting adjourned at 9:20 pm.

Joanne M. Westphal
Recording Secretary