

PENINSULA TOWNSHIP
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**Peninsula Township Board
Special Meeting
Peninsula Town Hall
October 11, 2018, 4:00 pm
Minutes**

1. Call to Order Manigold calls the meeting to order at 4:00 pm

2. Pledge

3. Roll Call Sanger, Bickle, Manigold, Achorn, Wunsch (Westphal at a different meeting, Wahl absent)

4. Conflict of Interest None

Dave Edmondson requests to have a statement read by his attorney, Fred Bimber, before the meeting. Manigold grants the request.

Fred Bimber P.O. Box 4049 Traverse City 49685-4049. I am here today representing Dave Edmondson. I have discussed with Dave a concern he has regarding the Development Rights Program. In particular that this program be maintained well and there should be careful monitoring of the program. The Township and other entities have spent a great deal of money and it is the kind of thing that over time people come and go and the restrictions that were in place may not be remembered. Dave and I think it behooves the Township to make sure that there is not slippage over time. I understand that someone remodeled a barn subject to PDR restrictions, began living in it and treating it as a residence. When things like that get put in place it gets difficult to say to people you can't do that, even though there has been some money invested on their part. Assuming that the facts relayed to me are true and that action should not have been permitted, the response ended up being an amendment to the ordinance that allowed that. There are other concerns that can be seen as developing when you have someone requesting a land division and can support that with an easement that is going to go across other property that happens to be conservation restricted. I would question whether construction of that private road over that adjacent parcel is not in itself a violation of the Development Rights Agreement- the parcel that would be subservient to the easement. There are some other issues in that case that are relevant in how you go about monitoring the Development Rights Program. But the important point I want to make today is that it is an important program, a lot of money has been spent acquiring the development rights and that should be protected. We think it can be best done by an independent party that is going to come to the situation with a fresh set of eyes and isn't going to be perhaps personally involved in the granting of a land division or something that might tend to impair the ability of the person if it does constitute a violation of the Development Rights Program. To do this properly is going to take some time to do the monitoring function, review contracts, go out and actually inspect the property and there probably should be some other review of things perhaps such as recent real estate transactions to see what has occurred, recent land division to see what has occurred, and what might be anticipated by way of some further development of the property. That will all take some time. Nobody likes to spend money, but this is an issue where an expenditure of some money is appropriate and it is going to take someone well focused on the issue and who is willing to spend some time looking at a number of different things and we suggest this would best be accomplished by a third party. We understand the Township put this out for bids. There were 2 bids, one from the Conservancy and one from another individual. I would hope in the process of deciding who is going to be assigned this function, you take a look at what is that party really supposed to do and what are their qualifications. It is an important program and it should be protected. Thank you.

Manigold: Mr. Edmondson has attended several meetings and I would request that your attorney put those concerns in writing. That the road wasn't recorded and then we found out and then it was. We have spent a tremendous amount of time and money currently getting all of those materials together with Mr. Oosterhouse on this question. I would like to have this question in writing to the Township and Mr. Meihn will write his response so we have not missed something. We did get all of the documents, land contracts and all of the items he has been talking about and we are putting that packet together for our attorneys. I met with Brian Graham and the other parcels you were talking about. There was an agreement between the board and that land owner to move his development right to that barn at his expense and we can review that one and document it too. What I do not want is anyone to question the importance of this program and I am one of the guys who started this and I am very close to it and I want it done right. I think that when you see what the committee has come up with may address some of your concerns today.

Bimber: The comment that Dave would have made is about the easement. That stems from something I said to Dave. The existence of that property as a separate split parcel was dependent upon access and that was represented as being an easement across a different parcel. I searched the deeds records and could not find any document that would properly create that easement and I believe today that is still the case. I am aware that someone has recorded the approval of the land division, but that does not amount to the legal creation of an easement. I will put this in writing and you can have your attorneys look at it.

Harold David Edmondson 12414 Center Road. Sally made the comment the other evening that I was providing false statements and Fred kind of cleared that up. I did make one false statement and I got it from her. She told me it was recorded. I am not making false statements. I am being told them by the assessor and I have proof to back that up. I wanted to participate in the subcommittee meetings. I was told specifically by Marge Achorn that I could not do that. In the Open Meetings Act I have all the right in the world to be there. So you have had 2 Subcommittee meetings on this PDR issue. It has to be posted and the public can be there.

Achorn: I specifically talked to Bickle at the meeting we had prior to the board meeting and I described the 3 of us and the Subcommittee meeting. I asked him specifically if it was going to be a closed meeting and would it be allowable under the Open Meetings Act and he said yes.

Wunsch: For the record I would like to say that it is my preference that meetings be held in public, but given the fact that we spent the first hour of our last public meeting with an interpersonal dispute between a board member and staff, I did not feel it would be productive to hold that meeting in a public forum. It is unfortunate, but we need to get the work done, we need to be able to negotiate with staff, and I felt that pushing through these issues in a public forum would undermine our ability to serve the township.

5. Business

a. Approve the Purchase of Development Rights Monitoring Contract

Sanger agreed to take the lead on the report from the 2 Subcommittee meetings held with Achorn and Wunsch. The Subcommittee reviewed the tasks involved with the PDR Monitoring Process. This is a 2 step process. The first step entails the following items: There is the preparation for the on-site visit, which includes notifying the parcel owner of the visit and the owner needs to be present for the visit. During the on-site visit of each parcel with a conservation easement, there is the gathering of data through photographs and observations. Any changes are identified from the previous year and any violations such as zoning or of the easement are noted. The person discusses the easement with the parcel owner before leaving the property. Coming back to the office the reporting person prepares a comprehensive report on the visit and summarizes the activities and documentation. Finally, the on-site visitor using the information gleaned summarizes the report to the independent auditor for their use. This is the second part of the PDR Monitoring Program. The auditor is specifically requested by the Peninsula Town Board for parcels that have changed ownership in the past year, a list of activities and also if the property owner is a member of the Township Board, a Township Commissioner, or a Township employee. That parcel is to be thoroughly examined. We secondly met with Sally (Akerley) and Christina (Deeren) to discuss the tasks, the timetable, which you all know has to be done before the end of this year. There are 114 parcels reported to the

Subcommittee to be inspected with an on-site visit; this number may change if the preparatory work shows recent land splits for any parcel. We discussed how much time it might take. It was estimated that the average time required to monitor a parcel is between 4 and 6 hours; some are straightforward such as a 5 acre simple parcel and others are more complicated and require more time. The Town Board moved on Tuesday night to expand the job description of the assessor and the zoning administrator to include the first step of the PDR monitoring. It is our feeling that the work should be conducted under the supervision of Manigold, the Peninsula Township Supervisor. Planning, zoning, and assessing are involved in the PDR, so this seems to make sense. Additionally, Glen Chown of the Grand Traverse Regional Land Conservancy has offered to provide assistance with the 2018 monitoring program by conducting a review and training program for Sally and Christina. The discussion of compensation resulted in the following recommendations: Each employee is to be paid \$8,250. This is to be paid in equal portions over the remaining payroll periods to the end of this year. Total additional salary for the program equals \$16,500. Mileage would be paid separately, upon submission of a travel report at the IRS reimbursement rate for 2018. This expense will average an estimated \$150 per PDR parcel for labor and mileage costs and the expense will be charged to the PDR program. I realize that last year you spent \$5000 and you might be asking why this expense is tripling. In looking at the detailed listing of the monitoring tasks and the number of parcels to be reviewed, the additional salary paid to each employee is consistent with the compensation for their assigned daily responsibilities. This work is to commence as quickly as possible.

Achorn: I fully concur with this.

Wunsch: I had a monitoring meeting with Mike Okema of the Land Conservancy and he indicated the Land Conservancy can help with the third party auditing portion and would also be willing to send one of their people along to monitor our staff when reviewing a parcel owned by members of the Township Board, or Commissioners, or the PDR Subcommittee to avoid conflicts or perceptions of a conflict.

Manigold: The Land Conservancy is going to meet with our staff to go over any laws that might have changed and we will have an independent audit at the end just like we do with our financials. I support this because of the several thousand acres under the conservation easement. People come in on those lands constantly asking about a building or what they can do with a split and these are the individuals that deal with it on a day-to-day basis in the Township and protect these easements. I did not bring the other two bids. The one gentleman was going to do everything on the weekends and was going to use staff to gather the initial information. The people selected to do this already have institutional knowledge. The Conservancy did not give a specific bid, but gave a spectrum of what they would do. I talked with Mike Okema to and they are in favor of doing the third party audit. I am in favor of this as well.

Bickle: I know you did not bring the bids with you but is it a reasonable assumption that this is less than what we would spend?

Wunsch: Yes, the individual person's bid was \$27,500 and it would have required us to allocate staff time. The Conservancy bid was roughly \$50,000.

Achorn: This contract would be for 2018 only, with the understanding that monitoring for 2019 would be discussed after the completion of this year. The third party auditor is to pay particular attention to parcels owned by a Township Board member (both past and present), parcels owned by a member of the PDR Selection Committee (both past and present), parcels owned by a Township Commissioner or Committee member who may have a conflict of interest, and parcels owned by a Township employee. Special attention is to be paid to parcels with a recently issued Land Use Permit, Special Use Permit, recently recorded transfer of ownership, land division or lot line adjustment, or a recent violation of the Peninsula Township Zoning Ordinance. In addition, any information requested by the auditor is required to be provided in order to complete an independent and through review. The residents of this Township are deeply concerned that this PDR program is properly monitored and we have tried to put in stop gaps so this occurs.

Bickle: From a cost perspective we have to look at these other bids in regards to using our staff time in addition to their costs. No matter how you look at it, our staff time is going to be required no matter what we do.

Wunsch: With the \$27,500 bid, if we are faced with the scenario where we did not have Sally or Christina and we were looking at having to turn this over to an outside entity, I am concerned there

could be cost overruns. If this person does not do PDR monitoring full time and only stayed for one year, then that data would have to be input again.

Manigold: As Mr. Bimber pointed out things change on the restricted home sites available and they would be coming into our office to obtain a building permit and those are the kinds of things that if you contract with someone would have to be using staff time or being brought up to speed on something that was not outside of an easement. Any further discussion?

Sanger: Yes, we want transparency. I also want to point out that our staff is doing public relations for the Township when they meet and talk with a landowner. We want citizens to have confidence in the PRD program.

Action-Motion Achorn moves that Sally Akerley and Christina Deeren be paid an additional \$8,250 each in the regular payroll intervals through December 31, 2018 and any additional mileage for the PDR Monitoring for 2018. Sanger amends the motion to include that oversight is to be provided by the Township Supervisor and the 4 page document from the PDR Subcommittee dated October 11, 2018 be part of this motion. (Pages 7-10 of this document) Sanger seconds.

Voice Vote--Ayes: Sanger, Bickle, Manigold, Achorn, Wunsch; Nays: none **Passed unam**

6. Citizen Comments

Nancy Heller 3091 Bluewater Rd. I would ask this board that those conversations with attorneys be in writing so that there would be no misinterpretation. You are asking the public to do this and I think it would be wise for the board so it is clear. I have been to several committee board meetings and I don't know which ones, but there have been several requests for these last minute handouts to have some copies for the audience. If it is too large of a document get it in packet form and get it online even if it is last minute. It is unfair for people who are sitting in the audience listening to a lot of time being spent talking about a document that they can't see. Thirdly, several meetings ago \$30,000 was approved to the Land Conservancy and I do not know what that was for other than possibly grants. I recall they meet with the PDR committee so can any of this source be used in this? You do not have to answer, but I am just putting it out to you.

Harold David Edmondson 12414 Center Road. I think that by stepping it up here you have done an excellent job and moved it in a good direction. So thank you. Whoever is going to do the monitoring hopefully can catch what I feel is wrong on a contract that I have. I think that all the fuss we had here has produced a better outcome.

7. Board Comments None

8. Adjournment Bickle moves to adjourn with a second by Sanger. Meeting adjourned at 4:45 pm

Lola Jackson
Recording Secretary

Attachment

Attachment



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To: Rob Manigold
From: PDR Monitoring Subcommittee
Marge Achorn
Isaiah Wunsch
Dave Sanger
Subject: Subcommittee Report – Tasks and Compensation
Date: October 11, 2018

The Subcommittee met on October 10th to identify the tasks involved in monitoring PDR contracts for 2018 and to develop a compensation program for the utilization of Sally Akerley and Christina Deeren, as Township employees, to conduct the monitoring for the year 2018. The Subcommittee's work is in accordance with a Motion approved at the Township Board meeting on October 9th to utilize employees Akerley and Deeren to conduct the monitoring work in addition to their daily assignments with additional compensation for the monitoring tasks.

The tasks involved with the monitoring program are listed on the attachment. These tasks include:

- Preparation for the on-site visit; notify the parcel owner of the visit
- On-site visit of each parcel with a conservation easement, the gathering of data through photographs and observations, identifying changes from the prior year and noting potential violations. Discussing the easement with the parcel owner
- Preparation of a comprehensive report for each parcel
- Providing information to the third-party Auditor for their use

The Subcommittee met with Sally and Christina and discussed the task and timetable for 2018. There are 114 parcels to be inspected with an on-site visit; this number may change if the preparatory work shows recent land splits for any parcels. It was estimated that the average time required to monitor a parcel is between 4 and 6 hours; some are straightforward and others are complicated and require more time. Sally and Christina would be accountable for the work to Supervisor Manigold, to whom they would be managed, as needed.

Glen Chown, Grand Traverse Regional Land Conservancy, has offered to provide assistance with the 2018 monitoring program, by conducting a review and training session for Sally and Christina.

The Subcommittee discussed additional compensation, as a salaried employee, for Sally and Christina, to conduct and complete the monitoring program for 2018 by December 31, 2018.

The Subcommittee recommends compensating each employee for this additional work:

- 8,250.00 to be paid equally over the remaining payroll periods this year. Total additional salary for the program equals \$16,500.00
- Mileage would be paid separately, upon submission of a travel report, at the IRS reimbursement rate for 2018

This expense will average an estimated \$150.00 per PDR parcel for labor and mileage costs; the expense will be charged to the PDR Program.

The Subcommittee acknowledges that this expense exceeds the amount paid for the monitoring program in 2017. Based on the detailed listing of the monitoring tasks and the number of parcels to be reviewed, the additional salary paid to each employee is consistent with the compensation for their assigned daily responsibilities as Assessor and Zoning Director, respectively.

This additional compensation program was acceptable to Sally and Christina. They committed to completing the monitoring program by December 31st, as required. This would be for 2018 only, with the understanding that monitoring for 2019 would be discussed after completion of the 2018 monitoring program.

The Subcommittee recommends that the Town Board approve this report, to enable Sally and Christina to begin the monitoring task as soon as possible.

Prepared by Dave Sanger

Annual monitoring shall conform to the Land Trust Alliance Standards and Practices handbook, issued in 1989 and revised 2017.

MONITORING ANNUAL PREP

- Investigate parcels to assure ownership is current and up to date (check Register of Deeds for sales)
- Identify any land divisions or lot line adjustments which may have created additional parcels to the monitoring list
- Review easements for familiarity prior to site inspection
- Notify owners of pending site inspections by first class mail

- Prepare files for site visits; including current aerial maps, record cards and baseline documents

SITE INSPECTIONS

- Schedule appointments and meet with owners wishing to accompany staff during site inspections. Note: Some property owners wish to meet on weekends and/or after 5pm
- Conduct verbal interview with owner if they are unable to accompany staff on site
- Conduct a thorough photographic inventory of property and structures
- Inspect man-made structures and note any alterations—have there been additions without permits, demolitions, etc.
- Observe conditions of property taking care to note current land use.
- Observe and document unauthorized uses:

Mining

Dumping

Impervious surfaces

Installation/Maintenance of acceptable structures

Timber harvesting/cutting

Commercial energy production

Infrastructure projects

Illegal activities

Unauthorized uses

Encroachment

Roads

Unauthorized subdivision of property

Hazardous substances

- Determine other areas of concern: violations or encroachments from adjacent lands; high risk activities on or adjacent to the easement area; conflicting landowner objectives, etc.
- Identify and report violations or actions needing follow-up
- Identify and report landowner concerns and comments

- Complete reports (which identify all site inspected observations) and forward to appropriate entities, as well as landowners by year end. The final reports shall be delivered to the township supervisor.
- Provide monitoring status reports to the township board if required
- Provide a comprehensive year-end report to township board
- Retain a permanent record of reports at the township offices • Update township database (BSA) with photos and structural changes observed

THIRD PARTY AUDIT

- Provide auditor a complete list of PDR properties, including Parcel ID Number, Owner Name and Address
- Identify any parcels which require audit:

Recently issued Land Use Permit

Recently issued Special Use Permit

Recently recorded transfer of ownership

Recently approved land division or lot line adjustment

Recent violation of the Peninsula Township Zoning Ordinance

Parcel(s) owned by a Township Board member (past or present??)

Parcel(s) owned by a member of the PDR Selection Committee (past or present??)

Parcel(s) owned by a Township Commission or Committee member who may have a conflict of interest

Parcel(s) owned by a Township employee

- Provide auditor any information that he/she may require in order to complete an independent review

