

**Regular Town Board Meeting
October 23, 2018, 7:00 pm
Peninsula Town Hall
Minutes**

1. **Call to Order** by Manigold at 7:00 pm
2. **Pledge**
3. **Roll Call** Present: Manigold, Westphal, Bickle, Sanger, Wunsch Absent: Achorn, Wahl
4. **Citizen Comments for items not on the agenda**

Dave Edmondson, 12414 Center Road, stated that it is his belief that the Open Meeting Act has been violated on two occasions by the Town Board subcommittee that is working on PDR Compliance Monitoring. He stated that the decisions that have been made by the subcommittee on PDR monitoring, and subsequently brought up to the Board and approved, must be rescinded. The actions are in violation of the Open Meetings Act.

Sue Kelley, Vice-president of the Traverse City Area Public Schools Board of Directors, thanked the Board and residents of the township for supporting the TCAPS bond request in August. She asked the residents to consider her for re-election to the TCAPS; and she endorses Matt Anderson, Pamela Forton, and Jeff Leonhart for the Board as well.

Nancy Heller, 3019 Blue Water Road, asked if there have been any applications submitted for the Clerk's position. **Westphal** responded that to date, there has been one application received.

Rhonda K. Busch, and Patricia Hinkle, teachers with "Team 5", asked for support in the upcoming election for TCAPS Board.

Mary Swift, Peninsula Drive, complained that the Clerk's office is not available for receiving Absentee Ballots and in failing to provide communication information relating to Bower's Harbor Vineyard (BHV) on a FOIA request.

Dave Edmondson, 12414 Center Road, responded to Swift's BHV allegations by stating the Code of Ethics was a document included in the minutes of a joint meeting of the Town Board, Planning Commission, and ZBA held in June, 2016, and available in the Town Hall.

5. Approve Agenda

Manigold added one item to the agenda, a contract proposal with Baird Cotter and Bishop, an accounting firm, to handle the bookwork of the Township after Deputy Clerk, Brenda DeKuiper, steps down from her position on November 8, 2018. This would occur until the end of the year.

Bickle moved to accept the agenda as amended; second by **Wunsch**. Voice vote.

Passed unam

6. Conflict of Interest None.

7. Consent Agenda

Manigold read the following:

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. Reports and announcements (as provided in packet)
 1. Officers
 - a. Clerk—Absentee Voter Ballot requests: 961 Precinct 1 and 939 precinct 2 (1900 total)
 2. Staff
 - a. Code Enforcement Officer Report for September 2018
 - b. Peninsula Community Library Report for September 2018
- b. Correspondence

1. Curt Peterson
2. Stephanie Swartzendruber

c. List of Invoices (recommend approval)

d. Approve request from Old Mission Peninsula Parent-Teach Organization for use of Charlie Doe sign on

November 10, 2018 to promote Boots and Bling school fundraising

Wunsch moved that the Board pass the Consent Agenda as presented; Bickle seconded. Roll call.

Bickle-Yes; Manigold-Yes; Westphal-Yes; Wunsch-Yes; Sanger-Yes.

Passed unam

8. Old Business

a. Approve Vineyard Ridge SUP#127-Water/Sewer Extension Construction Oversight contract update

and escrow update for cost overruns (Hodges) estimated at \$17,225.00.

Hodges presented how Gordie Fraser estimates contract oversight work so that escrows can be set at the beginning of a project. These estimates attempt to consider the various types of work being done (e.g., plan review, construction oversight, and close-out) and factors including contractor delays and weather. Occasionally, some estimates come in higher and others come in lower as the work progresses. In this case, we had a significant cost overrun of \$17,225.00 for construction oversight work for this project. Hodges provided an amendment to the contract, so that a correction in the contract and addition to the escrow for project oversight could occur.

Bickle made a motion to direct the planner to contact the Vineyard Ridge developer to provide a minimum deposit in the Township's construction oversight escrow account of \$17,225.00; **Wunsch** seconds. Roll call: Manigold-Yes; Westphal-Yes; Wunsch-Yes; Sanger-Yes; Bickle-Yes.

Passed unam

b. Interview candidates for the Planning Commission and Zoning Board of Appeals: Lawrence Dloski,

John Dolton, Todd Oosterhouse, Mary Peters, Curt Peterson

Manigold outlined the procedure for interviewing and selecting individuals for filling the vacant positions on the Planning Commission and Zoning Board of Appeals. **Sanger** asked **Manigold** to identify the vacancies. **Manigold** stated three positions were open on the Planning Commission; two regular positions on the Zoning Board of Appeals, and two alternate positions on ZBA.

Each of the candidates were given ten minutes to provide a brief overview of their background and interest in applying for the Board or Commission, and then a short question and answer period followed with the Board. The interviews occurred in the following order:

Lawrence Dlosky, a retired municipal law attorney

John Dolton, a retired housing authority development director

Todd Oosterhouse, a winery owner and former construction contractor

Mary Peters, a current Planning Commissioner, seeking a second term on the Planning Commission

Curt Peterson, a retired materials engineer

Three other individuals put their name into the hat late for the Zoning Board of Appeals. These included:

Rachel McBride, current alternate on the ZBA

Bernie Soutar, current ZBA member seeking another term

Lisa Hemming, cherry farmer family member

Manigold stated that as Supervisor, he has the statutory responsibility to name individuals he thinks should serve on the Planning Commission. Discussion occurred on each with various Board members providing insight.

He nominates: Mary Peters. **Sanger** makes the motion to reappoint Mary Peters for a second term to the Planning Commission; **Westphal** seconds. Roll call: Sanger-Yes; Bickle-Yes; Manigold-Yes; Westphal-Yes; Wunsch-Yes **Passed unam**

Manigold's second nomination was: Lawrence Dlosky. **Wunsch** makes the motion to appoint Lawrence Dlosky to a term as Planning Commissioner; **Bickle** seconds. Roll call: Manigold-Yes; Westphal-Yes; Wunsch-Yes; Sanger-Yes; Bickle-Yes **Passed unam**

Manigold's third nomination was: Todd Oosterhouse for the Planning Commission. Meihn warns of potential conflict of interest with this candidate in terms of upcoming winery issues.

Bickle makes the motion to appoint Todd Oosterhouse to a term as Planning Commission; **Sanger** seconds. Roll call: Wunsch-Yes; Sanger-Yes; Bickle-Yes; Manigold-Yes; Westphal-No **Passed 4-1**

Manigold indicates that anyone from the Board can put forth nominations for the Zoning Board of Appeals. There are two full term vacancies on ZBA and one alternate for a one-year term. **Wunsch** nominates Bernie Soutar and Rachel McBride for the Zoning Board of Appeals appointment and Lisa Hemming as the alternate; **Westphal** seconds. Roll call: Sanger-Yes; Bickle-Yes; Manigold-Yes; Westphal-Yes; Wunsch-Yes **Passed unam**

Meihn suggests that the Board identify the length of term for each of the Planning Commissioners and ZBA members. **Wunsch** moves that Peters and Dlosky be appointed to the full three-year terms and Oosterhouse to the two-year partial term; Bickle seconds. Roll call. Westphal-Yes; Wunsch-Yes; Sanger-Yes; Bickle-Yes; Manigold-Yes **Passed unam**

Westphal moves that Dolton be selected to fill the vacancy for the other alternate ZBA slot; **Bickle** seconds. Roll call: Manigold-Yes; Bickle-Yes; Sanger-Yes; Wunsch-Yes; Westphal-Yes. **Passed unam**

c. Approve and accept 2018 Township Audit Report from Tobin & Associates

Bickle reports that at the end of the fiscal year 2017-18, the Township holds \$5.6M in government funds, an increase over the previous FY. **Bickle** moved to accept the Township Audit Report from Tobin and Associates; **Wunsch** seconds. Meihn asks that each of the Board members indicate that they have read the report and asks Manigold to specifically ask each individual. All state that they have reviewed the report. Roll call. Wunsch-Yes; Sanger-Yes; Bickle-Yes; Manigold-Yes; Westphal-Yes **Passed unam**

9. New Business

a. Extend Township Snow Plow Bid for 2018-2019 with KLM Landscaping

Bickle reviewed the snowplow bid of last year, and KLM has indicated that they are willing to extend last year's contract to this year at the same price of \$7490.00/season. **Bickle** moves to extend the KLM snowplow bid of \$7490.00 to the 2018-19 snow year; **Wunsch** seconds. Roll call: Sanger-Yes; Bickle-Yes; Manigold-Yes; Westphal-Yes; Wunsch-Yes **Passed unam**

b. Approval of the Baird Cotter And Bishop bookkeeping contract agreement (added to the agenda earlier in the meeting by Manigold)

Manigold has **Bickle** provide a brief synopsis of the contract agreement. **Bickle** states that Baird Cotter and Bishop have been providing the Township with bookkeeping restructuring and reconciliation services over the past year. They are familiar with our payroll, accounts payable, and general ledger system. When DeKuiper tendered her resignation, the Township went out to them for assistance in managing the books during the transition to new Clerk and Deputy Clerk. They have provided an estimate of the cost of doing this at \$1500/month for the next 60 days and \$1000/month beginning January 1, 2019. **Bickle** stated it includes all year-end reporting, etc. Meihn recommended a written agreement outlining all of the services until the end of the year; no automatic renewal in the agreement should be a part of the agreement. **Sanger** suggests that the contract be extended to January 31, 2019 to include W-2's, etc. **Wunsch** moves that the supervisor's office engage with Baird Cotter and Bishop P.C. to handle the services surrounding the Township's books until January 31, 2019; **Bickle** seconds the motion. Roll call. Sanger-Yes; Bickle-Yes; Manigold-Yes; Westphal-Yes; Wunsch-Yes **Passed unam**

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

Manigold asks Meihn if the Board should go into closed session. Meihn states he does not think that is necessary and states he will provide a synopsis of his finding to day relating to five different issues, and then he suggests that a meeting of the Board in closed session take place sometime over the next two weeks to handle one of the issues. His synopsis of "updates" was as follows.

1. *The "81" litigation.* Mawby has submitted his latest report that the Board has received by email on the condition of monitoring for arsenic in air borne soil; the report finds no arsenic in the air. The plaintiff's attorney would like the Township to remove the monitoring conditions relating to arsenic as a potential air borne contaminate on the site. Meihn advises that the Board read the report, and be prepared to discuss it in a week or two.
2. *Best Practices on Minutes presentation.* Meihn states he has finished compiling his PowerPoint presentation for minute taking at Town Board meetings and will have it available at the next Town Board meeting. It is a 25-minute presentation, along with handouts, which presents Best Practices from a Non-profit perspective, a Municipality perspective, and a Business Perspective. These perspectives are all different; he will focus on the municipality perspective. The handout will be distributed to the Board shortly.
3. *Investigation Report.* Meihn states that he is wrapping up the investigation surrounding the Clerk's complaint that she has filed against two individuals and the complaints that the two individuals have filed against the Clerk. Meihn states that Westphal had answered all of his questions surrounding the complaint, and had provided the original letter that she had penned with the Township's Human Resource counsel, showing a broader context for the complaint. He states he has the report completed, and is looking to the Board on direction as to how it should be disseminated and how we should discuss it. He would like to discuss it at the next meeting. He suggests three options: 1) the report is disseminated to the Clerk, the two staff members, and the Supervisor first, and then at a closed session at the next Town Board meeting the rest of the Board receives the report for discussion; 2) the report is disseminated to the entire Board under Attorney-Client privilege, since the Board is now acting as the Personnel Committee for the Township, and at the next Town Board meeting we go into closed session to discuss it; 3) (no third option was provided). Manigold states he would prefer all of the Board to receive the report and then to go into closed session at the next Town Board meeting. Meihn asks Westphal what she thought. Westphal states that she would like to note that she filed a complaint against one individual not two individuals, as Meihn had incorrectly stated when he opened dialogue on the investigation report. Meihn stood corrected. Westphal went on to say that originally when she filed the complaint, it went to the two attorney groups, and the entire Board because they were the Personnel

Committee at the time, and the complaint was supposed to remain confidential, but it was not. Westphal states that it should go to the whole Board. Bickle stresses the importance of confidentiality. The remainder of the Board state they would be comfortable receiving the report before the next meeting. Bickle moves that the report be sent to the whole Board; Wunsch seconds. Roll call: Manigold-Yes; Bickle-Yes; Sanger-Yes; Wunsch-Yes; Westphal-Yes. **Passed unam**

4. *Open Meeting Act.* Meihn stated that in earlier correspondence to the Board, he included a position paragraph on the conditions surrounding Open Meetings Act requirements, relating to subcommittee meetings of the Board or other township commissions, etc. He gives several examples of when a subcommittee does not have to post a meeting, provide access to the public, or submit minutes. He comes back to "Best Practices" as a counterpoint to the argument of Open Meetings Act violations, which he provides numerous examples of school boards and other entities not posting meetings or providing minutes. Meihn states that the Board announced to PDR subcommittee meeting for the morning at the Town Board meeting the night before, so there was no violation of the Open Meetings Act and minutes actually came out of the subcommittee for the meeting.

Meihn said that concluded the five items he wanted to talk about in the closed session.

9. Citizen Comments

John Dolton thanked the Board for considering his nomination for Planning Commission.

10. Board Comments None

11. Adjournment

Bickle moved to adjourn the meeting; **Sanger** seconded. Voice vote. **Passed Unam**

The meeting was adjourned at 8:55 pm

Respectfully submitted,

Joanne M. Westphal, Recording Secretary
Peninsula Township Clerk