

**Town Board Meeting
October 24, 2017, 7:00 pm
Township Hall
Regular Meeting Minutes**

1. **Call to Order** by Rob Manigold
2. **Pledge**
3. **Roll Call** Present: Manigold, Westphal, Bickle, Achorn, Wunsch, Sanders Absent: Wahl (excused)
Also present: Brian VanDenBrande, Planner and Greg Meihen, Township Attorney

4. **Approve Agenda**

There was a motion to approve the agenda by **Sanders**; second by **Wunsch**. No discussion.

Passed Unam

5. **Brief Citizen Comments**

Manigold asked if the audience had any comments. - **None**

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.

1. Meeting Minutes Approval—September 18, 2017 Special TB meeting 3pm, September 20, 2017 Special TB meeting 8am, September 28, 2017 Special TB meeting, October 10, 2017 Regular TB meeting
2. Reports and announcements (as provided in packet)
 - A. Officers
 - B. Staff
3. Correspondence (as provided in packet)
4. Edit list of Invoices (recommend approval)
5. Approve moving the regular Town Board meeting of November 14, 2017 at 7pm to November 7, 2017 at 7pm
6. Authorize the Fire Chief and Interim Fire Chief to advertise ALS and BLS positions with the Peninsula Fire Department

Motion to approve the consent agenda – Bickle; second by Wunsch. No discussion

Passed Unam

8. **Business**

1. Public Hearing on Proposed Land Division Ordinance No. 49- Amendment No. 1

Supervisor, Manigold closed regular scheduled meeting and opened Public Hearing for Proposed Land Division Ordinance No. 49 – Amendment 1.

Brian VanDenBrande, Planner: Introducing Amendment No. 1 of proposed Land Division Ordinance. Existing Land Division Ordinance No. 49 this is the 1st proposed Amendment to that Ordinance. The purpose of this is to set into code the policy that was adopted by the Township Board a few months ago to establish that the Assessor, Planner, Zoning Administrator and Legal Counsel that reviews a proposed land divisions as well as to define the high water mark for water front properties. This will be defined as the ordinary high water mark as defined by the current Zoning Ordinance which will help keep consistency with setbacks and area required for waterfront lots.

Bickle: What would be the substantial changes to this verses our current Ordinance?

VanDenBrande: The Traverse line has created some inconstancies with regards to how lots are measured.

Bickle, The high water mark is what we will propose to use. **VanDenBrande**: Correct as this does not change or go up and down like the lake does. It stays consistent. **Greg Meihen**: One of the biggest problems that Townships, Cities and Municipalities have in general is being able to have both the Board and public that are trying to use the Ordinances. Everyone needs to have a clear understanding of what is expected of them and what they can seek from you. Unfortunately this Board has been handed a number of different problems with land uses in the ordinances which are not clear that opens you up to liability. Boards must maintain discretion, decision and conflict management issues. Boards should not have any conflict of interest involved in any decisions that are made as it protects you and the public. This new policy first establishes consistency with using a described marker thus establishing consistency and fair treatment to everyone. Secondly, it creates a system by which you avoid conflict of interest decisions. There have been arguments that previous boards in the past have been involved in an implicit conflict. Having the four people review the land use change or proposed change will determine if it is appropriate and is compliant with the law and ordinance. I would encourage the Board to move forward quickly on this as it will reduce conflict and confusion. **Bickle**, Greg as the Township Attorney you will be reviewing each of the land divisions that are brought before either our Township Board or the Assessor's Office? **Greg Meihen**: That is correct. If anyone of the four parties can raise an issue of a conflict. They all have to affirm that they have no conflict or that they don't approve it then will stop the process and gives the Board the opportunity to find a fair and equitable way.

Manigold: Open for public hearing.

Nancy Heller, 3091 Blue Water Rd., Traverse City, MI 49686; I would like to thank the Planner for meeting with me earlier. She hopes that he will take under consideration some of the suggestions that she had. The terms, I attend the Ordinance re-write committee meetings and their suggestion has been to eliminate some of these ordains terms to make it simple so the general public can understand. One of the questions that I have is for the Attorney I would like to know the average cost for the review? **Greg Meihen**: For me it \$100.00. **Nancy**: A flat \$100.00? No, matter how complicated? **Greg Meihen**: Yes. **Nancy**: I would emphasis that your fee schedule should be at the top of my priority list. **Manigold**: That is going to be discussed. **Nancy**: What is the difference between the high water mark verses the water's edge? **Greg Meihen**: The ordinance, land use, statue whatever you write and expect people to follow needs to be clear enough that the public understands them. The Traverse line is defined as where the water laps up that would be deemed to be the traverse line for you today tomorrow that line may be different. If the water increases the traverse line may move. It is a photograph in time for that moment by using the ordinary high water mark which is set forth it never moves. It is where it is even if it is covered by water. **Nancy**: Is the ordinary high water mark adjusted on a regular basis or is there a formula that is with us forever? **Greg Meihen**: No, it is generally something in time and memorial. **Nancy**: Under section 5a 6&7 referring questioning what one will do with the land and seven I do not feel as a resident that it is the Townships concern as what I do as long as I comply with the ordinance.

Monnie Peters, 1425 Nehtawanta Rd., Traverse City, MI 49686: The ordinary high water 583.5 ft. it is the international great lakes datum. It is established by the Army Corps of Engineers about every 40 or 50 years they may or may not change it. Our zoning code does state specifically what the number is and the I.G.L.D. (International Great Lakes Datum). Many deeds read to the water's edge. Whether it is defined as the traverse line or the water's edge it goes up and down so we do want something in stone that is used by a certified surveyor. A certified surveyor will say that they measure the land to the ordinary high so this is why we are requesting clarification in our zoning. A procedure you may want to consider is to have some sort of notification via the website to notify adjacent owners as this is what got the previous board into some trouble. I don't think that this procedure should be an ordinance. When the land division is complete is put on the website.

Manigold: Close public hearing. Directed issue back to the board for discussion. Manigold expressed some urgency to get a new ordinance established as we do have a projected land division that is surveyed using the traverse line in which they are adamant is a legal survey. We did approve a policy several months ago using four people to approve the land division. It is important that we act on this this evening. We currently charge \$70.00 for a current land division. This may be fine for a simple line adjustment but not for dividing several lots. The fee is no longer appropriate when four people are reviewing the information. **Achorn**: the act that I see before us is being replaced by just these two items? **Greg Meihen**: This is just an amendment to the current ordinance. **Wunsch**: Asked for clarification of the sections of the Ordinance being amended. **VanDenBrande**: You have a new definition of the "ordinary high" / "review committee" and the procedural. **Greg Meihen**: When we say "new" definition we are not saying that an existing

definition has

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been modified. We have added a definition that did not previously exist. We are not creating a new definition for the ordinary high water mark we are using the standard one but we are adding it into as it wasn't there. **VanDenBrande:** This is reflection of the policy that was adopted previously by the Township Board. **Westphal:** Questioning the basis of Section 5 item (7) pertaining to: a brief statement as to the purpose of the proposed division or property transfer and whether lots, parcels or tracts of land that will result from the division or property transfer are intended as a development site. **VanDenBrand:** That was a carryover from the current ordinance

Manigold: It is a use by right. **Akerely:** It is in the land division act. **Manigold:** The land division act is a Legislative Act in which we have 45 days to make a decision.

Motion: **Wunsch:** Moves to adopt the amendments to Land Division Ordinance No. 49- Amendment No. 1
Supported by: **Sanders.** **Passed Unam**

Supervisor, Manigold closed regular scheduled meeting and opened Public Hearing for Proposed Junk and Blight Ordinance No. 53 – Repeal and Replace Ordinance No. 41.

VanDenBrande: The purpose of this is to repeal and replace Junk Ordinance No. 53. Code Enforcement needs to have clear definitions as to what is junk and blight. This is a more descriptive ordinance than what is presently in the ordinance.

Manigold: Open to Public for comment.

Nancy Heller, 3091 Blue Water Rd., Traverse City, MI 49686: Met with Planner to discuss the language of the proposed ordinance changes. Concerned that the ordinance is not realistic for farming operations and that it could put farmers out of business. The language needs to be clear and understandable for people to comply with the requirements.

Monnie Peters, 1425 Neahtawanta Rd., Traverse City, MI 49686: Expressed concerns that the ordinance needs further clarification for blighted structures and how they are viewed by staff. It also needs to be mindful of the Agricultural farming machinery. Ordinance is approximately 50% complete but needs have clear definitions and language.

Mark Nadolski, 10 McKinley Rd., Traverse City, MI 49686: I have a question more than a comment. Does each Township, County and State define what junk is and does the ordinance supersede any legal action. How does a judge respond to these challenges? **Greg Meihen:** Each City or Township has a level of discretion based upon the unique characteristics of each City and Township in each state which allows them to promulgate rules and regulations. There are boundaries and those boundaries are proper exercise of discretionary duties to meet the needs within those units. As long as there is a reasonable basis and the discretion is exercised appropriately. **Mark:** So policing authorities and judges will base their decisions on the ordinance that is written in that Township? **Greg Meihen:** That is correct.

Manigold: Closed public hearing. Directed issue back before the Board for discussion. **Manigold:** Stated that there may be a GAMP or Right to Farm which may enter into this regarding the farming interest. This is a policed ordinance. We do have an ordinance in place. Manigold suggested sending this ordinance to the Planning Commission for adjustments and public input. Manigold questioned if this ordinance came from MTA. **Greg Meihen:** Yes it did. Manigold stated that this is just a general sample of an ordinance which you can add to or subtract from to make it fit. Greg: You have to modify them each community is unique in what their requirements are. **Saunders:** I was excited to see this come before the Board. It has enough detail to cover some of the issues that we have. It is fair to send it back to the Planning Commission as long as it doesn't take months to review. **Bickle:** Doesn't envision that it will take several months to review. Conquers with Supervisor, Manigold to allow the Planning Commission to merge and purge in order to present something merit able and understandable. **Westphal:** Found the ordinance language to be offensive. This is not what Peninsula Township is about. There have been millions of dollars spent to preserve Agricultural land. There is a viable construction industry, farming industry and agotourism industry all which depend on different types of mechanization and different types structures and cultural practices. All of which make Peninsula Township unique in terms of its ambiance and the beauty of its landscape and the

merits of its junk. Junk to one person is not junk to another. Taking an ordinance from Rochester Hills or East Lansing or wherever downstate Michigan embraces a picture perfect landscape that does not exist and tries to put it into an ordinance as we see in this junk ordinance will always be a shoe that does not fit and is uncomfortable. This is an area that we need the Planning Commission to investigate. It needs to have language that is reflective of this community. Junk on the landscape is art of the people. It is not logical or reasonable.

Manigold: the ordinance is not meant to target farmers. It is meant to protect and create safety.

Achorn: I would like to see the Planning Commission work on the definitions as they are vague. **Waunch:** We should table this and then form a committee of three to address the concerns. **Westphal:** There is no standard or criteria for these standards there needs to be some standards and procedures. **Manigold:** a procedure built into this ordinance would be very effective. So a new Board would not read or interpret it differently.

Motion by Wunsch: Table this ordinance to a Sub-committee of Waunch, Westphal and Saunders.

Supported by Bickle.

Passed unam

Citizen Comments:

Nancy Heller, 3901 Blue Water Rd., Traverse City, MI 49686; Hopes that the Board takes the time to go over each ordinance to ensure that they fit the community.

Nan Smith: 16300 Smokey Hollow Rd., Traverse City, MI 49686; Was very glad to hear what JoAnne Westphal had to say. The first time I read this ordinance I thought the same thing. We need ordinances that are fitting with the community. How will we be able to hear about the changes before it comes back before the Board. I am unable to attend most of the meetings. **Westphal:** We can post changes on the front page of the website. **Nan Smith:** My husband builds most everything that we have we could have stacks of items outside stacked neatly for which we could receive a ticket for. How do you deal with that? **Manigold:** I would say no. That is why we hold a public hearing so people can come out and express their concerns both pro and con.

Board Comments: Manigold: Regarding the compactor we have a few bids for it. We did get the grading built in for \$40,000.00 there will be an American Waste dump. It will be a lot better and safer place. We will need to sand it in the winter. The road will be upgraded. The generator is in place per the contract. Consumers is requiring to shut the power down for the day and upgrading the box on November 17, 2017.. Public Hearing on the 81project will be held at the St. Joseph church tomorrow at 7pm.

Westpahl: Howard Byrne was awarded the contract for upgrading the AV system in the Township Hall. Howard received the contract about a month ago. He has checked the building for grounding purposes. We will need some new plugs for the monitors so when someone is presenting a power point people will be able to see them. There will be a camera in the back that will video stream the meetings so people can access the videos live from their home that wants to go on the server. The system will be archived. It is going to be a very nice system and will improve our recording secretaries situation.

Bickle: We have received communication from Randy Rittenhouse of his resignation. Everyone that sees Randy should be as thankful for his service as we are. We understand your decision and we cannot thank you enough especially during the time where there was uncertainty. You have been stout we are very proud to have you as our Chief.

Adjournment: Motion by: Westphal 2nd by Saunders. 7:59 pm

