

**Peninsula Township Town Board
Regular Meeting
May 10, 2016**

Meeting called order at 7:00 P.M.

Present: **Avery; Byron; Hoffman; Correia-Chair; Weatherholt; Witkop; Rosi**

Absent: None

Also present were *Michele Reardon*, Director of Planning and Zoning, *Jim Young*, Peninsula Township Attorney and *Mary Ann Abbott*, Recording Secretary.

Approve Agenda

Correia would like Business #3 The 81 Public hearing moved to Business item #1. **Hoffman** would like the minutes for April 18th and April 25th moved to the next joint Town Board and Planning Commission meeting for approval by both boards.

MOTION: Byron/Weatherholt to approve agenda with changes. **PASSED UNAN**

Brief Citizen Comments – for items not on the Agenda

Dan Lathrup, County Commissioner District # 1 will be here after the meeting to address any county concerns.

Marilyn Elliott, 18811 *Whispering Trail* submitted a statement that she would like to have added verbatim to these minutes. (This statement will appear at the end of these minutes)

Mark Nadolski, 10 *McKinley Road* is here in his position as President of Protect the Peninsula and brought up concerns regarding The 81. There were integral differences between the Findings of Fact prepared by the Township Planner and the Findings of Fact that were reviewed by the Township Attorney and presented to the Town Board for their vote. Nadowski stated that both boards were told that they were to follow the facts that he created. Asking the Board to delay action based on the fact that they were not provided information that was relevant.

Joe Quant, 412 *South Union* states that in March he heard Mr. Komendera make comments. Mr. Komendera mentioned that Mr. Correia and Mr. Quandt were business partners. Not true, never true. Mr. Komendera mentioned that Mr. Correia and Mr. Quandt were engaged in land development projects. Not true, never true. Mr. Komendera alleged that Quandt had a relationship with Traverse City State Bank. Mr. Quandt has been an attorney for Traverse City State Bank for a long time. Mr. Correia has not been on the board for a long time. After all the issues of the 81 project had been approved by this board and had gone to litigation in Circuit Court, Pete asked Quandt to represent him on a completely unrelated matter. Felt he could represent Correia, but as soon as Mr. Komendera raised the issue in March he withdrew from representing both Mr. Correia and The 81. Quandt states that he never influenced Correia decision-making and no business or client relationship before the board approved it.

Tom McMohan 4114 *Trevor Road* would like to see the Board declare a moratorium on any development because we do not have fire protection.

Matt Russell, 7340 *Logan Lane* states that we do have representatives from Hilltop, Logan Lane and Maple Terrace that are here for the Special Assessment District and did not see it on the agenda.

Anne Griffiths 14548 *Bluff Road* is concerned about the inadequate fire department coverage and the inadequate EMS rescue coverage.

Jim Komendera, 4168 *Rocky Shore Trail* was looking at the packet on the Township Website and only saw only one letter in favor of the "81". Komendera would like to leave a petition with the Town Board which asked the board to deny the request until further studies on its effect on the environment, natural habitat, erosion and the shoreline are completed.

Conflict of Interest

Byron does not know if she has a conflict of interest. *Jim Young Attorney* says that based on the Judges' ruling in regards to the "81" she should continue to recuse herself. **Rosi** asked if anyone else needed to recuse themselves. **Weatherholt** will be recusing himself from anything to do with the PDR program from now on. **Rosi** asked Correia if he should recuse himself. **Correia** states that he will not be recusing myself based on the advice from the Attorney. *Jim Young, Attorney* says according to the judge that recusing herself was proper under the Township's Code of Ethics. **Byron** has asked for a review of the Code of Ethics. **Hoffman** says that tonight we are just looking at the PDR Selection Committee back in place so not sure if she should

also recuse from the PDR. **Avery** it is hard not to have had relationships with people here on the Peninsula. **Witkop** has known the Attorney Settles for the "81" project for a long time, as he was an attorney with her father's firm when she was a child. Further discussion on the issue of Byron and the "like" of the opposition to The 81 Facebook page. Township Attorney then read the Judges decision that Byron's recusal was proper. Attorney suggests that the Town Board might take it up as a separate issue and review Township's Rules and Procedures and Code of Ethics.

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. Reports and Announcements (as provided in packet)
 - A. Officers – Clerk, Supervisor, Treasurer
 - B. Departmental – Planning Commission, Zoning Board of Appeals, Attorney, Engineer, Library, Fire Board, Park Commission and Township Deputy.
2. Correspondence (as provided in packet)
3. Edit lists of invoices (recommend approval)
4. Meeting Minutes
 - March 14, 2016 Special Meeting Closed Session
 - April 18, 2016 9:00am Special Meeting & Closed Session
 - April 25, 2016 2nd Regular Meeting
 - April 26, 2016 10:00am Union Negotiation Committee Meeting (recommend approval)
5. April 2016 Payroll (recommend approval)
6. Parade of Homes Sign Placement Request (recommend approval)

Rosi would like the minutes of April 12, 2016 removed and placed as Business Item.

MOTION: Witkop/Weatherholt to approve the Consent Agenda with changes. **PASSED UNAN**

Business.

1. The 81 – Public Hearing

Attorney Jim Young states that a Public Hearing has been set based on the Judge's order. Applicant will be asking for an adjournment of the Public Hearing. *Phillip Settles* represents the "81" and is asking for an adjournment on several reasons. 1. Received an update from Scott Howard on how the International Fire Code applies to land uses and has not had time to review this fire code and how it applies to this case and 2. There are oodles of citizens here on this matter and they would like to set a special meeting. Mr. Settles has asked to pay for a larger facility to allow the facts to be presented. The attorney feels that it would benefit to have comments presented for just this purpose in a more comfortable surrounding.

Hoffman questions whether it can be held off the Peninsula Township. *Attorney Young* will check on this. **Reardon** says that staff will look into this. We will need timing to publish and send out notices.

Scott Howard No objection to postponing the Public Hearing. *Attorney Jim Young* supports the rescheduling of the Public Hearing and feels that it is appropriate and justified. **Witkop** Information needs to be received by the board in a timely manner in order to be able to review it. *Attorney Jim Young* says that comments have the right to submit information right up to the end of the public hearing. You are allowed to gather information and then adjourn and review. You may adjourn this meeting until a later date and time with proper notice.

MOTION: Witkop/Avery to adjourn the Public Hearing and Board deliberation of "The 81".

Roll Call Vote: **Avery-yes; Byron-abstain; Hoffman-yes; Correia-yes; Weatherholt-yes; Witkop-yes; Rosi-yes**

MOTION PASSED 6 /0 Byron Abstain

2. Kahn 2nd Opinion – Verbal

Hoffman states that you may recall at the April Township Board meeting we were asked to get a second opinion. The next morning we were issued a summons by Mrs. Kahn. Hoffman and Byron have some ideas for firms to contact but we have to wait in getting this second opinion due to this lawsuit

3. National Cherry Festival Race 2016 Large Event Permit – Public Hearing

Reardon A one-year approval request has been submitted and is in the packet. Michelle Elliot, Business Development Manager is available to answer any questions tonight and will be present during the event.

Corriea opened the Public Hearing on this issue at 8:01 p.m. There were no comments from the audience. Board comments were then solicited. Discussion occurred concerning Road Closures, Right of Ways, Fire and Emergency coverage, fencing, notices and route information on the Peninsula Township Website.

MOTION: Avery/Rosi to approve the Large Event Permit for the National Cherry Festival to conduct Festival Races on July 9, 2016 for one year.
PASSED UNAN

MOTION: Avery/ Rosi to approve Chateau Grand Traverse request to host the start of the half-marathon course on July 9, 2016.
PASSED UNAN

4. Special Assessment District Braemar/Old Mission Estates - Informal Presentation by Joe Quandt

Quandt presented background on the Special Assessment District supported by the stakeholders. The process resulted in forming a special assessment district under PA 188. Under PA 188 you can put a “not to exceed” figure and set for a specific period of time. 79% of the people who are affected in the Logan Hill district and 75% of the Braemer district are in favor of the special assessment district. Residents hired engineers to help determine what needs to be done.

Quandt and engineer presented slide presentation as well as packet information concerning the proposal for the work to be done for the Special Assessment District. Discussion occurred about current water flow, suggested time frame, catch basins and the maintenance and maintenance budgets in this assessment as well as the role of the Road Commission in this plan. Drawing of drains that are suggested were also submitted. This plan is proposed and still needs to be approved by Township Engineer. Road Commission has submitted a proposal for the Road Commission portion of maintenance of this project.

Quandt states that final figures will be in place for the Public Hearing.

Avery Could Mr. McElyea comment on the pricing of the project especially his comments about being open-ended?
McElyea states it is preliminary but that Quandt has addressed these issues.

5. School Board Resolution (Tabled from April 12, 2016)

MOTION: Hoffman/Avery to un-table the School Board Resolution from April 12, 2016.

PASSED UNAN

Consensus is that any changes the board wishes to make to this resolution will be submitted to the Clerk and will be presented at the next Town Board meeting.

6. Accept Fire Board Resignations

MOTION: Weatherholt/Byron to accept the Fire Board Resignations of Jon Sprenger, Tony Andrus and Jonathon Goode.

PASSED UNAN

7. Brining Contract (Tabled for April 25, 2016)

MOTION: Byron/Hoffman to un-table Brining Contract from April 25, 2016 meeting.

Roll Call Vote: **Avery-yes; Byron-yes; Hoffman-yes; Correia-yes; Weatherholt-yes; Witkop-yes; Rosi-yes**

PASSED UNAN

Weatherholt need to get on the schedule so there is time to get two sprayings in. Weatherholt indicated that the quality of Brine that the Road Commission accepts has to be approved by the DEQ. Weatherholt will work on Ridgewood after these two brines.

MOTION: Avery/Byron to get on the Brining Schedule.

PASSED UNAN

8. PDR Selection Committee (Tabled for April 25, 2016)

MOTION: Avery/Byron to un-table PDR Selection Committee from the April 25, 2016 meeting.

PASSED UNAN

Weatherholt recuses himself.

In 2009 a PDR Committee was selected. This committee needs to be reinstated. Suggested that current members be contacted to see if they still wish to serve.

Consensus of Board is that current committee members be contacted to see if they wish to continue to serve and then advertise for any vacancies.

9. Resolution To Do Speed Study on Bluff Road

Residents attempting to have speed limit reduced from 55 mph to 45 mph.

MOTION: Byron/Avery to approve the resolution regarding the request for speed study for the section of Bluff Road near Boursaw.

Roll Call Vote: **Avery-yes; Byron-yes; Hoffman-yes; Correia-yes; Weatherholt-yes; Witkop-yes; Rosi-yes**
PASSED UNAN

10. April 12, 2016 Regular Meeting

Discussion by the Town Board on content of minutes. **Rosi** has some typing corrections that will be given to the secretary. Video taping again suggested

MOTION: Byron/Rosi to get three quotes on videotaping minutes.

PASSED UNAN

MOTION: Byron/Hoffman to approve minutes of April 12, 2016 meeting

PASSED UNAN

Citizen Comments

Hoffman asked to read the Public Comment Procedure for Citizen Comments. Public Comment Procedure: Any person shall be permitted to address the meeting of the Peninsula Township Board, which is required to be open to the public under the provision of the Open Meeting Act. Public Comments will be carried out in accordance with the following rules and procedures. To speak the person who wishes to speak will state his/her name and address. The amount of time that the person will be allowed to speak will not exceed three minutes.

Monnie Peters, 1425 Nehtawanta Road Peters asked the clerk to pull the minutes of the Joint Town Board and Planning Commission off the agenda so the Joint Boards could approve them. Peters suggests that videotaping may resolve some of the minute issues. Peters also thinks it is right to approve the race event for one year time period but suggests backing the process up 6 months may give opportunity for changes and notification to participants.

Margaret Achorn, 11284 Peninsula Drive states that if the board is having trouble remembering what was happening in the discussion of Mr. Wendling's comments about Mr. Correia's potential conflict of interest. Draws attention to the minutes of April 12th. Achorn then read that section of the minutes: *Wendling* The reason that Mr. Correia called to see if he should recuse himself is that subsequent to the August 11th meeting the Kahn issue came up. Mr. Correia then hired Joseph Quandt who is the same attorney who represented the developer on "The 81". I informed Correia that if you were coming up on a vote on an administrative portion of the Ordinance it poses a conflict of interest. Goes back to Judges Rodgers ruling that even an image of impropriety is a problem. He was not aware that Mr. Quandt's letter was not distributed to the board members until tonight. The reason you could vote on the other issue is that it did not involve the administration of your Zoning Ordinance. **Witkop** was it discussed with the Supervisor what this selection of that attorney would mean to future votes on "The 81" *Wendling* he was told it was a problem. Wendling was surprised Board members did not have that letter. **Hoffman** stated that the letter was only sent to the supervisor.

Jim Cook, Grand Traverse Road Commission, 1882 LaFranier disappointed as he came here because he thought there were concerns about the draft agreement and hoped to explain it in laymen's terms. Cook will be at the work session tomorrow. And Cook will also be happy to come to the next Town Board meeting to explain. Cook states that this will be a Township owned drainage district. There is a 5-year maintenance agreement in the amount of \$10,000.00, which will cover us for 5 years, and this drainage district will go on for longer than that. From a Road Commission perspective our ability to own and maintain an infrastructure does not go beyond the right of way. A lot of this will be outside of the Right of way. The Road Commission can handle water that falls on the roadway and flows off the roadway. The Road Commission really does not want to co-mingle our water with water from a private development. The Township will own that drain from the beginning to the point of discharge. We need to work through some of those details. **Byron** People on the road improvement on Peninsula Drive are unhappy that there was no discussion with the homeowners.

Bob Bolek, 7398 Peninsula Drive wondered if the runner's could be made aware on the application that the roads will be open and to stay to the right. Also last year they cut our trees and if you drive down the road you may not even notice it.

Mark McKellar, Grand Traverse Road Board says that this board needs to understand that the Grand Traverse Road Commission staff asks us to preserve our assets. During the process of the petitions we found out that people did not like the idea that large government was going to come in and tell them and mandate a tax. People out here are passionate and they care. Your residents said that they would take care of it and work with people they know. At the end of the day you will end up with a great drain. We need

you at the Board level to get this information before the Public Hearing. He appreciates the work of the Peninsula Township Board. Thrilled to be part of this local process.

Kevin McElyea, County Drain Commissioner states that he did not insinuate that these meetings were not done in public. Welcomes this entire project

Board Comments

Avery We have a fantastic Fire Department. What will happen is the same thing that happens every time. Northflight comes out here. The City is backup for fire. There are scare tactics out there and it is insulting to those guys who are doing a great job.

Witkop What is bothersome to her is that there is a lack of knowledge. We have a great Fire Department out there. To hear snickering in the crowd shows a lack of support for this current fire department. These guys have been on the Fire Department for a long time and do a great job. They are still here and deserve our respect.

Hoffman Minutes are hard to do and we need to be thankful for the recording secretaries we have. They are trying to put your thoughts on papers

MOTION: Avery/Witkop to adjourn at 9:56 p.m.

Respectfully submitted by Mary Ann Abbott, Recording Secretary.

My name is Marilyn Elliott, 18811 Whispering Trail. I would like my comments placed in the public transcript of this meeting verbatim, and I am providing a copy of same to the Secretary.

On April 14, 2016 a local citizen sent a message to the Board which detailed the publicly-available history of the long-standing business relationship between the Supervisor and Attorney Joseph Quandt. The citizen did this to ask if it seemed appropriate that the Supervisor participate in discussions regarding the "81" development project, for which Attorney Quandt was advocating.

It has been suggested that since the events to which the citizen referred took place several years ago, the relationship between the Supervisor and Attorney Quandt should not be an obstacle to the Supervisor's involvement.

I would now like to read from a letter dated February 3rd, 2016 addressed to Robert A. Cooney, Grand Traverse County Prosecutor. The subject of the letter is QUOTE Pete Correia Land Division Act Compliance UNQUOTE. The letter describes the numerous documents Attorney Quandt supplied to the Prosecutor in support of Mr. Correia's position. It concludes QUOTE Bob, I'm hoping that all of this information is clear, objective and definitive as to the size of the parent parcel for purposes of determining the number of land divisions allowed from the parent parcel. It is our hope and expectation that you will not be pursuing litigation against Mr. Correia...UNQUOTE The letter is signed QUOTE Joseph E. Quandt UNQUOTE

This letter was written on behalf of the Supervisor as recently as three months ago, during a time in which the approval for the "81" development was still pending final action.

It has also been suggested that perhaps Attorney Quandt no longer represents the developer of the "81" project, so Mr. Quandt's relationship with Mr. Correia is no longer an issue. However, in the application for the community septic system for the "81" project filed with the DEQ in March of this year, and which David Taft reviewed in the DEQ Cadillac offices, the Board of Directors of QUOTE The 81 Development Company, LLC UNQUOTE names 3 persons: Mr. O'Grady, Mrs. O'Grady and....Joseph E. Quandt

Given all of this information, and given that Trustee Byron was forced to recuse herself from the "81" vote because she might have had QUOTE a potential bias or prejudice against the developer UNQUOTE, for "liking" a Facebook page, does it not seem logical for the voters and citizens AND YOU THE TOWNSHIP BOARD to question whether Mr. Correia might have a potential bias FOR the developer, and should therefore recuse himself.