

**Peninsula Township
May 8, 2018, 7:00 pm
Regular Town Board Meeting
Minutes**

1. **Call to Order** by Manigold at 7:00 p.m.
2. **Pledge**
3. **Roll Call** Present: Manigold, Bickle, Achorn, Westphal, Wahl, Wunsch, Sanger
Also present: Gordon Hayward, Planning and Zoning, Christina Deeren, Zoning Administrator, Greg Meihn, Township Attorney and Jennifer Hodges of GFA
4. **Brief Citizen Comments** None
5. **Approve Agenda**

Manigold: Request for speed sign approval contract to be moved to Item E under Business. Second request is to add Item F--Board to move into closed session for an 81 update by the attorney.

Motion to approve the agenda as amended by **Wunsch**, with a second by **Bickle**.
Passed Unam

6. **Conflict of Interest** None
7. **Consent Agenda**
Any member of the Board, staff, or 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 – April 10, 2018, 7:00 pm, Regular Town Board Meeting
 - B. Reports and Announcements (as provided in packet)
 1. Officer Reports-Treasurer's Report
 2. Staff Reports-Fire Chief Report
 - C. Correspondence
 - D. Invoice Register (approval recommendation)
 - E. Approve quote from Nation Business Furniture for fire proof cabinet in Clerk's Office
 - F. Approve Intergovernmental Agreement Creating Northwest Regional Fire Training Center Authority (with amended language)
 - G. Approve request from the Parade of Homes Coordinator to post 10 directional Signs for event (June 11-17-2018)

Kirk Peterson made public apology to Attorney, Greg Meihn for error in his comment on the expenditures.

Moved to approve the Consent Agenda as presented by **Wunsch**, seconded by **Bickle**.

Roll Call; Wunsch -Yes, Wahl -Yes, Bickle -Yes, Manigold -Yes, Westphal -Yes, Achorn - Yes.

Passed Unam

8. Business

A. Approve one year contract extension for Peninsula Township Sexton Position held by Wilkinson.

Westphal: Wilkinson has been the Sexton for three to four years, managing both the grounds and the customers. He works with Funeral Directors in determining whether burials are full burials or cremations, along with the families. He is current with State Health Department regulations to stay compliant with the rules and regulations associated with funerals. Currently, he is working with the Clerk's Office to get data updated and ready for a digital cemetery record system.

Manigold: Bob is also the Township's maintenance person and has been the Sexton for several years. He has done a great job. This is just a renewal of the contract.

Achorn: I thought the contract was \$36,000.00 in the past. If it is higher, then it is a slight increase.

Westphal: I did not think that this was an increase from past years.

Moved by **Bickle** to approve the one year contractual agreement with Wilkinson, seconded by **Sanger**.

Roll Call: Sanger – Yes, Wahl -Yes, Bickle -Yes, Manigold – Yes, Westphal – Yes, Achorn – Yes, Wunsch – Yes.

Passed Unam

B. Discuss Floodplain Ordinance Language Amendment

Deeren: We had an amendment that needed to be made because of a lawsuit that we went through. The re-write committee came up with new language for the Floodplain Ordinance that was passed at the Planning Commission. Attorney Meihn has been able to look at this ordinance that is before you. The changes will have to be approved at a public hearing and then followed through with Board approval.

Manigold: We have had the public hearing for this at the Planning Commission. Attorney Meihn has made a couple of adjustments to this language, which we all received this morning.

Achorn: I have one question regarding the description of the Engineer. Whether a Professional Engineer or whether we should increase the experience to an Environmental Engineer or Hydrologic Engineer.

Westphal: I question whether the qualifications should be broadened to that of a wetland specialist, including hydrologists, registered landscape architects, plant ecologists, or environmental engineers. I there are some errors in this. The set back of 25 feet should be maintained between any structures and/or impervious surface and a wetland. In this case, why are we limiting ourselves to 25 feet when we can set any standard for this.

Deeren: That is DEQ's standard.

Westphal: Okay, but we can still set higher standards in this Township.

Meihn: That is what the Planning Commission suggested, but I agree with you that the Board can set whatever standard you want, as long as you can defend it. You can extend that beyond what the DEQ set but that is the minimum.

Westphal: My second question is that this states that a setback of 25 feet shall be maintained between any structures. Does that include roads? Is a structure defined as a road as well?

Meihn: No.

Westphal: Why not? It is part of the built environment.

Meihn: A structure is usually defined in the text book as being a building or an object that is standing. But a road is a structure and you can define structure however you want in this if you want to do so.

Westphal: I am asking these questions, because I think a better term would be the built environment which would encompass roads as structures. In the definition of a wetland there is other things to protect such as special glacial features. When we use a definition of wetland we need to think about it in its broadest, scientific context and apply it to what is found here in our Township. We then adopt the best management practices relating to it.

Meihn and **Westphal** then carry on an exchange about floodplains, pointing out issues pertinent from each individual's professional perspective. Westphal discussed the importance of delineation and who in the Township should be charged with accurately delineating a wetland's boundary.

Meihn discussed the importance of defining predictable flooding patterns; he noted with development, these patterns are often exasperated by hard surface areas being introduced to the landscape. His point was to move from unpredictable events to more predictable events in setting standards for floodplains.

Westphal: The text of the resolution needs to add feet after 583.5 on page 2 of the Floodplain section for completeness. I also would encourage the last sentence in paragraph 2, B.2, that "registered landscape architect, plant ecologist and/or hydraulic engineer" be added.

Achorn: I had environment engineer and/or hydrology engineer.

Westphal: under 3, Floodplain B-3, Permitted Uses includes: a playground in the floodplain. We should discourage this use. Floodplains often are very wet areas; playgrounds do not belong there. The last one is 3 D, service drives, utility uses. It is not just the flooded area due to standing or moving water, it is the entire soil disruption when you use any type of vehicle in a floodplain. You are just tearing up, compacting, and/or breaking down the soil structure in a floodplain. The result is "ponding", which is caused when soil layers are compressed into impervious lens that inhibit draining. Item D is inconsistent with the purpose is for this regulation, which is to protect those areas called floodplains.

Discussion continued between members of the TB and the Attorney on types of uses appropriate. At one point, Manigold asked if the amendment should go back to the Planning Commission. Meihn disagreed and encouraged the Board to move forward

with the suggested changes to the amendment, and approve the amendment with those changes. Some additional suggestions for change were offered before the vote by **Deeren** (setback), **Westphal** (plant selection), and **Sanger**. Sanger noted a contradiction in the individual charged with enforcing the floodplain and wetland amendment.

Sanger: Retaining walls. The ordinance in section 7.4.3 (5) is contradictory; it states that the Zoning Administrator shall issue a land use permit for a seawall without regard to the minimal setback that it goes on. We should look carefully at 7.4.3 (5) in regard to this statement. As the Enforcement Officer, I spend time going through ordinances, and find inconsistencies. In terms of the vegetative buffer protection we have in 7.4.4 that describes the buffer it talks about 30% of the shoreline must be maintained with no cutting and it defines the depths of the buffer, these two need to be brought together so that people can point to the right ordinance. Under number 5.B, the conditions for permitted uses may require professional engineer review; under 5.C, the Planning Commission may require additional information from a professional engineer. However, when we talk about a wetland, we charge the Zoning Administrator with requesting an engineering study when necessary. I am trying to understand the difference between the Zoning Administrator issuing a request from a Planning Commissioner's request. The only thing that I can think of is that at the PC level, they do talk about PUD's and SUP's, where I can see that an issue of wetlands would be dealt with Land Use Permit (LUD). I do not understand the logic of charging the PC when the effective oversight of the wetlands is being done at the land use permit level.

Meihn: I want to correct that the PC is not involved in the wetlands; the PC is involved in the floodplain. He asked Sanger if he wanted the wetlands to be under the PC as well.

Sanger: To clarify, I can see where the PC would be involved in a PUD where open land is set aside for the open space. A vast majority of requests to do something within the floodplain would come through a land use permit which is administrated through the Zoning Administrator.

Meihn: Permitting may be administrated through the Zoning Administrator, but the ordinance has existed for the better part of 15 years, and that request has to go before the PC.

Deeren: Then it gets appealed at the Zoning Board of Appeals.

Meihn: The floodplain deals with the PC, and wetlands deal with the Zoning Administrator.

Open discussion continues.

Sanger: I understand that you are replacing 7.4.7 in its entirety but nowhere in this section can you find where the PC is involved. I can find in 7.4.7 where the ZBA is involved in C, which reads filling in the floodplain and areas above the floodplain may be permitted by approval from the ZBA with prior approval of the DNR. There is no basis in this existing section of the ordinance, where there was review by the PC.

Meihn and **Sanger** look for ordinance and the language of the ordinance.

Meihn: Requirements are in 7.5.7, and 7.4.7 under “required conditions”. This is where you are dealing with the ZBA. Then you go through the normal process where you have to jump back to the PC to do that.

Sanger asks Meihn for clarification.

Meihn: By design, are you objecting to the floodplain going to the PC?

Sanger: I am trying to understand the process. I can see why the ZBA is involved with issuing a land use permit. I understand that if this new language prevails, that something goes before PC, but I am not sure what product the PC is receiving and then what it is supposed to do with it, since it is not in the ordinance.

Meihn: Correct, that is why we changed it.

Sanger: What is the basis of the authority of the PC to review this request through a land use permit, when the land use responsibility is given to the ZBA?

Meihn: We are taking one section and trying to fix a problem. If you want to fix the rest of this section, we can do that.

Sanger: That was not my intent. I am just trying to understand why we are charging the PC for additional responsibility. I understand in the case of a PUD or a SUP where they already have the responsibility or authority; taking an applicant that is requesting to fill in the floodplain that would normally go before the ZBA.

Meihn: It does. If you look at number 5 the only thing that goes before the PC is the request to fill in the floodplain or a portion of that parcel with the permitted use as set forth in the section above has been granted. Such granting of the request is subject to the following: that goes through the PC, and the rest of it goes to the Zoning Administrator and the reason is that you got the request. If you want to change the whole structure of it, we can do so; but we have a problem with everything here. If there is a suggested change that you think would be more effective, then that is fine. I am letting you know that five [7.5.7] only requires the PC when there has already been an approval. The PC wants to look at the approval, and how that is going to get done.

Sanger: Would this trigger a public hearing at the PC level since this is a new process that we are creating. It is not common to see this type of change in ordinance language, based on his prior experience on the ZBA. I recall a couple of cases where the ZBA gives the process and one that is aggrieved by the ZBA before the Circuit Court so to involve the PC. To take that land use permit through the PC is a major change.

Manigold: Suggested that this goes back to the PC for corrections.

Meihn: Due process rights and where the floodplain is found within the current ordinance causes the floodplain to stand alone as part of another process.

Hodges: I also have some modifications to be made to the language and will pass this off to Greg.

Wunsch: expressed concerns about this ordinance going back to the PC, and asked for input from the Board so that this could be done in a timely fashion. His concern stems from his previous experience with the Junk Ordinance and Short term Rental Ordinances being turned down by the Town Board and returned to the PC.

Motion by **Wunsch** to send the ordinance back to the PC for corrections and rehearing, seconded by Bickle.

Passed Unam

C. Consider Ballot Language to Dissolve the Parks Commission

Manigold: Explained why this on the agenda and the agreement with the Park Commissioners who are in favor of this. Five hundred signatures are needed before

ballot consideration can be made. In November, the ballot language would go before the citizens to dissolve the Board. Discussed how this would then be absorbed into a new function. Many past chairs of the Park Commission have requested to proceed with this. This is not a hostile thing, but rather more of a procedural process. This is for informational purposes only.

D. Select Contractor for Furnace Replacement in the Old Town Hall

Manigold: Three bids were received. Bids were opened.

Bids: \$3,385.00 – Team Bob’s
\$3,195.00 – D and W
\$3,382.00 – Grand Traverse Refrigeration

Motion by **Wahl** to accept the B&W bid; seconded by **Bickle**.

Roll Call: Manigold – Yes, Westphal – Yes, Achorn – Yes, Wunsch – Yes, Sanger – Yes,
Bickle – Yes **Passed Unam**

E. Speed Sign approval

Abbring: Talked about the need for the speed signs and the cost associated with the signs. The signs have a built in mechanism for theft.

Bickle: I am a supporter of the signs, and I would like a detailed report of the contract agreement and maintained cost.

Westphal: also in support of having these signs in place and the data that they will supply to the Township in terms of traffic counts and flows.

Manigold: Stated the relevance of being able to use the data when people are calling in to complain about cars going too fast. Consensus would be having Sheriff Barshoff come and give the Board more detail. Would like this set up for the next Board meeting. Will go into closed session following Citizen Comments.

9. Citizen Comments

Jane Boursaw, 12875 Bluff Rd., Traverse City, MI 49686; she questioned if item C was the specific language that would be used on the ballot. **Manigold:** Verified that the Board was asked by citizens to put together a petition and ballot language. Clerk Westphal will verify if the signatures on the petition are accurate and then this will go to the County to be certified and on to the ballot. Boursaw: she mentioned events that will be coming up. The Methodist Church yard sale will be going on May 18th and 19th; then the Old Missions Women's Club will also be having a sale on the same weekend at the Lavender Farm on Center Road. On May 20th at 11:00 will be the Blessing of the Blossoms at Chateau Chantel.

Monnie Peters, 1425 Neahtawanta Rd., Traverse City, MI 49686. On the issue of traffic signs. When the Master Plan Committee was looking at traffic and road issues after the Bluff Rd., it was discussed that we spent a couple of committee meetings reviewing the issue of traffic. Brian VanDenBrand said that we could get the traffic information and start understanding what was happening. She suggested that the Board purchase whatever the plan is for the signage, but she would also like to figure out how to use the data provided so as to profile whatever is going on. On the issue of floodplain. I think people need to understand that when we discuss floodplain, we are actually talking about those three feet from the ordinary high water mark up to the beach. There are only about 15 to 20 properties that are all privately held homes and residences that have a floodplain of significant size on the Peninsula. We are planning to have a shoreline overlay in the rewrite. We don't have to worry about vehicles being parked on a floodplain; the utility uses were primarily for electrical poles being put in those small areas. The floodplain issue is a small issue within our entire shoreline. When I listened to the discussion this evening, I felt that everything you were doing was word improvements, but you have voted to send this back to the PC which will take another 3 to 4 months before this will come back. I do think that we have a problem with the material that comes out of the PC and then moves on up to the Township Board in terms of numbers, letters or little things being changed. I don't know how to take care of a PC document so that it is the same document as it moves on. We have seen issues with the corrections that have not been made as it moves forward to the TB. Maybe having better administrative help may resolve this.

She asked Meihn about the conversation at the TB meeting in February regarding the Small Makers License and Mr. Rigan's request. Mr. Meihn was going to provide information on this. She would like to know where this is at because it is May.

Bickle: Rigan requested approval of a small wine maker's license.

Meihn: Rob, JoAnne and I have talked and we are ready to have that discussion. It just has not found its way to the agenda.

Bickle: This is still an open issue.

10. Board Comments

Manigold: Peninsula Drive is on the Road Commissions agenda as a 2018 project for tar and chipping. They do not have an exact date but mid-July is the target.

Wunsch: stated it appears that they are preparing the road.

Manigold: Bayshore Marathon--we applied for a \$25,000.00 grant to match the track grant. On the flooding in Old Mission--the Fire Department removed an elderly couple when their neighboring property flooded. Lots of water issues are on-going, and we met this morning with the Road Commission and the Drain Commissioner to deal with the issues. We have asked GFA to look at one of the homes specifically.

Westphal: She observed that one of the problems with the way the agenda is structured is that we don't seem to get items back on it. She questioned the National Cherry Festival item from the last meeting, and whether the \$8,000.00 bill was paid from them as requested in the billing that was submitted to them?

Bickle: Has not received any information in the Treasurer's Office and therefore has nothing to report.

Manigold: the amount to cover the runners was paid.

Bickle: They agreed to that on the spot so they could get their permit.

Manigold: At 5:20 we received information from MTA that in Peninsula Township there will be some legislative item that deals with wineries on the Peninsula serving pop and water.

The Board then moved into closed session.

11. Adjournment

Moved by **Bickle** and seconded by **Wahl** to adjourn.

Passed Unam

Adjournment at 7:49 pm