

**January 3, 2022, Township
Board Special Meeting
Packet Addition**

Minutes

Peninsula Township
Township Board Regular Meeting
November 18, 2021, 7:00 p.m.
Becky Chown, Recording Secretary
DRAFT MINUTES

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

www.peninsulatownship.com

Township Board Special Meeting Minutes

December 20, 2021, 8:00 a.m.

Township Conference Room

1. **Call to Order** by Manigold at 8:05 a.m.

2. **Pledge**

3. **Roll Call:**

Present: Wunsch, Achorn, Sanger, Manigold, Chown, with Bickle present by phone

Also present: Jenn Cram and Attorney Meihn by phone

Absent: Wahl

4. **Brief Citizen Comments:** none

5. **Approve Agenda**

Motion approved by consent.

6. **Conflict of Interest:** none

7. **Consent Agenda:** none

8. **Business:**

1. Enter closed session pursuant to MCL 14.268(e) to discuss the upcoming January 4, 2022, settlement conference with Attorney Meihn.

Wunsch moved to enter closed session pursuant to MCL 14.268(e) to discuss the upcoming January 4, 2022, settlement conference with Attorney Meihn with a second by Sanger.

Roll call vote:

Passed unan

Return to open session pursuant to MCL 14.261.

Wunsch moved to return to open session pursuant to MCL 14.268(e) with a second by Sanger.

Roll call vote:

Passed unan

9. **Citizen Comments:** none

Motion to adjourn approved by consent.

Meeting adjourned at 10:42 a.m.

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PENINSULA TOWNSHIP

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Township Board Special Meeting Minutes

December 22, 2021, 1:00 p.m.

Township Conference Room

1. **Call to Order** by Chown at 1:05 p.m.

2. **Pledge**

3. **Roll Call:**

Present: Wunsch, Achorn, Sanger, Chown, with Manigold present by phone

Also Present: Jenn Cram and Attorney Meihn

Absent: Wahl

4. **Brief Citizen Comments:** none

5. **Approve Agenda**

Motion approved by consent.

6. **Conflict of Interest:** none

7. **Consent Agenda:** none

8. **Business:**

1. Enter closed session pursuant to MCL 14.268(e) to discuss the upcoming January 4, 2022, settlement conference with Attorney Meihn.

Wunsch moved to enter closed session pursuant to MCL 14.268(e) to discuss the upcoming January 4, 2022, settlement conference with Attorney Meihn with a second by Chown.

Roll call vote:

Passed unan

Return to open session pursuant to MCL 14.261.

Wunsch moved to return to open session pursuant to MCL 14.268(e) with a second by Sanger.

Roll call vote:

Passed unan

Wunsch moved to contract with Jenn Cram as a consultant with the effective starting date of December 20, 2021, at the rate of \$100.00/hour, not to exceed \$2,500.00, with her contractual employment to end upon her starting date as Peninsula Township's director of planning to commence on January 3, 2022, seconded by Sanger.

9. **Citizen Comments:** none

Motion to adjourn approved by consent.

Meeting adjourned at 3:35 p.m.

Updated Certificate of Insurance

Correspondence

December 31, 2021

Dear Township Board Members,

Thank you for your stand to protect the safety and beauty of the peninsula. This is a pivotal time in the history of our peninsula and whatever actions you take will forevermore determine its future.

I am surprised at the convoluted legal process to date. It certainly deviates from my experiences as a municipal lawyer of forty years. I am troubled by talks of settlement before discovery, alleged commitment to a settlement without the Township Board's approval at an open meeting, and an upcoming expedited settlement conference taking place before the motions for summary judgement have been ruled upon by the court. These actions are unusual at best.

Because of the puzzling legal process to date, I strongly feel that more time is needed to examine the issues. It is my understanding the Board will consider a resolution for a short moratorium for new or amended SUPs in the agricultural district. I believe that this is an excellent idea. This would allow time for the township to plan for an equitable use of the agricultural district. Such a resolution will require coordination and action by the citizens' committee, as well as the planning commission, prior to any final decisions made by the Township Board.

The legal process can be long and cumbersome. Thank you for exhibiting the patience and fortitude to protect the peninsula.

Peter Cohl
9466 Rolling Ridge

Comments from Martin and Olivia Lagina

To The Peninsula Township Planning commission.

Commissioners:

At the Peninsula Town Board Meeting of Dec 14, 2021 it was recommended that the proposed amended Zoning Ordinance be sent back to the Planning Commission with instructions to LEAVE OUT SECTIONS WITH SUBSTANTIAL CHANGES, and/or substantially revise them with additional citizen input. The process should eliminate unwise, unnecessary and excessive regulation.

WE CONCUR

We could support adoption of the reformulated ordinance if and only if the following sections/items are omitted in their entirety or substantially reconsidered:

Section 8.04 (proposed Ordinance) Steep Slopes

ELIMINATE - this entire area is regulated by robust oversight and enforcement by State agencies. It is a nonsensical additional burden to landowners to layer on Township control. In addition, the current Zoning Ordinance recognizes the steep slope issue (and always did) BY THE VERY NATURE OF R-1A zoning, which requires large lots because of recognized steep slopes in the R-1A district.

Section 3.13 (proposed Ordinance) Shoreline Zones- ELIMINATE ENTIRELY

This section tries to over regulate an area that is probably 95-98% ALREADY DEVELOPED. Existing regulations are working just fine. We recommend that commissioners drive down both east and west shorelines- there are LOTS of trees and other vegetation in the areas near the shoreline. This is simply because land OWNERS are usually good stewards and the current standards are working. Eliminate this poorly considered section entirely and don't reconsider it. Enacting this section will most likely cause trees TO BE REMOVED because landowners will realize their rights are being taken and must act to protect views OVER THEIR OWN LANDS.

Section 8.04 (proposed Ordinance) Soil Erosion & Storm Water Sections.

These are a ridiculous laying on of regulations already fully covered and enforced by State Law. We absolutely challenge anyone to show us anywhere on Peninsula Twp. where these standards are needed.

Section 6.15 (proposed Ordinance) Commercial Zone

Don't change anything except making the 35' building height consistent with the rest of the entire peninsula. Suggested changes try to address PROBLEMS THAT DON'T EXIST. Where are the complaints/citizen input? Who made this stuff up?

Definitions-


- Grade, Natural - Eliminate the definition and use of "natural grade" for building heights. This is another regulation to radically change zones that ARE ALREADY 96% built. Where is the problem? Just because a few people object to new buildings in "their view"? It isn't "their view". It belongs to the owner of the land to be built upon. The new builder should have the same rights as the "old complainer". We all learned this in Kindergarten! This is a massive, unwarranted change that is wildly unfair to those who have waited to develop.
- Structure- The definition of "structure" should not be changed; piles of dirt and rocks are not "structures"! The existing definition is more than adequate.

General:

- Get rid of "stealth" changes- anything that wasn't highlighted in versions on the website, e.g. the insidious adding of the words "or use" to stop the use of ATV's or snowmobiles in Winery Chateau section (6.34 proposed ordinance). In addition, and of utmost importance, a "redline" version of the proposed new ordinance clearly showing ALL changes must be provided to township citizens PRIOR to adoption. Citizens should have at least 30 days to review an accurate red lined document.

- Enact a proper and error free Master Plan following all proper procedures before enacting any ordinance changes.
- Land Use Permits- Eliminate all new requirements for Land Use permits. This is expensive and excessive bureaucracy gone mad.


M. OLIVIA LAGINA


MARTIN G. LAGINA

Rebecca Chown

From: John Jacobs <jjacobs@jjacobs.com>
Sent: Sunday, January 2, 2022 5:00 PM
To: Pete Correia; treasurer@peninsulatownship.com; Rebecca Chown; Isaiah Wunsch; marge.peninsulatruster@gmai.com; dave.peninsulatruster@gmail.com; warren.peninsulatruster@gmail.com
Subject: Support of Jan 3 Resolutions

Dear Peninsula Township Board,

The proposed resolutions to impose a moratorium on SUP applications in the ag district and directing the Planning Commission to continue its review of the ag district zoning ordinance strikes me a beautiful example of "why didn't someone think of this earlier".

I urge you to vote in favor of the resolutions.

John Jacobs

5290 Forest Ave.

Comments from Grant Parsons

References to remember at the Mediation in Federal Court, on January 4:

Reference #1:

Judge Maloney's Opinion and Order, Jan. 15, 2021, rejected WOMP's motion for injunction. Maloney ruled that WOMP had such little chance of winning the suit he didn't feel WOMP's claims deserved more than brief mention. Here's a verbatim quote from his Opinion:

"Because the Court concludes that no argument raises a strong enough likelihood of success to counterbalance the failure to establish irreparable harm, the Court will only briefly review all seven of Plaintiffs' [WOMP's] arguments."

Reference #2:

The last time one of the wineries sued the Township (Chateau Chantal in 1998) Judge Philip E. Rodgers, Jr. issued a Consent Judgment Order that both the Township and Chateau Chantal agreed to. These are the main points: 1) Any changes in the winery ordinance would have to be decided "after public hearing" ... 2) The Winery Ordinance is valid, and the Special Use Permit process for wineries is valid. Here's a verbatim quote from his Judgement Order:

"Such guidelines shall be established after a public hearing..."

"The Township Board shall, by resolution or motion passed by a majority of the Township Board, establish guidelines for the following purposes: ... Such guidelines shall be established after public hearing. The same guidelines that are established for the Chateau Chantal premises shall be the basis for an amendment to Sec. 8.7.3(10) of the Township Zoning Ordinance."

Reference #3:

In WOMP's current lawsuit, WOMP filed a brief that says the following, a direct quote:

"Two years ago, it appeared as if progress had finally been made with the parties negotiating in good faith through the legislative process. (*Id.*, 119-120.) That just brought a series of delays and endless subcommittees. Left with no options, the Wineries filed this suit."

Conclusion: I am not going to stand here and tell you whether or not to settle. But I want you to remember these references to assist you in your settlement discussion. There is a long, deep legal history behind the Winery Ordinance. The rules to amend the Winery Ordinance work. WOMP admits that until COVID stopped the whole world, the Township was working

to rewrite our Winery Ordinance. Then WOMP stopped the process by filing suit. Our Advisory Committee offered WOMP 3 seats on the Committee, and WOMP refused them

Rebecca Chown

From: Dave Murphy <davemurphy6943@gmail.com>
Sent: Sunday, January 2, 2022 4:09 PM
To: 'Rebecca Chown'; 'Treasurer'; 'Rob Manigold'; 'Marge '; 'David K. Sanger'; 'Isaiah Wunsch'; warren.peninsulatrustee@gmail.com
Subject: Support for resolutions on the agenda for 1-3-22

Board members,

This is to indicate my support for the wisdom of a moratorium on SUPs or revised SUPs in the ag district as well as needed modifications to the zoning ordinance pertaining to the ag district.

Thank you for your leadership with these issues.

Dave Murphy

Rebecca Chown

From: sdp2050@gmail.com
Sent: Sunday, January 2, 2022 8:47 PM
To: clerk@peninsulatownship.com
Subject: Winery Lawsuit

For the Township Board –

This is to urge you to stand with the many residents of Peninsula Township who are firmly opposed to the expanded uses that are being sought by WOMP. I and many of my neighbors in proximity to these wineries will be harmed if you allow expanded commercial/agricultural operations beyond those that were granted in the ordinances as they stand.

Indeed, we have seen a taste of the character, traffic, noise, and other civil infringements related to WOMP member's operations. Residents say "no more." You will recall the strong showing by residents to the Board meetings in late summer/early fall.

In addition, many residents have put their time and money into efforts such as Protect the Peninsula, Township committees, and in other ways to protect our lands from over-development. The changes sought by WOMP are a blatant affront to Peninsula Township and its residents.

I earnestly plead with you to stay strong and true to the many Peninsula Township residents who have stood against the expanded uses sought by WOMP. Tell WOMP that residents matter.

Sincerely,

Scott Phillips
8348 E. Shore Rd.
sdp2050@gmail.com