

PENINSULA TOWNSHIP

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Town Board Special Meeting

Township Hall

February 19, 2019

7:00 p.m.

Minutes

1. **Call to Order** by Supervisor Manigold at 7:00 p.m.
2. **Pledge**
3. **Roll Call:** Sanger, Wahl, Bickle, Manigold, Chown, Achorn
Absent: Wunsch – Also present; Randy Mielnik, Planner and Jennifer Hodges, GFA
4. **Brief Citizen Comments (for items not on the agenda):**

Joanne Westphal presented letter that she requested be placed in the January 2018 newsletter. This farewell note was not published in the newsletter. Upon inquiring from Clerk Chown why this was not published, the clerk stated she did not publish it upon advice from township legal counsel. Westphal requested her letter be placed in the township board meeting minutes of February 19, 2018.

Prelude

This brief note was submitted for inclusion in the January Newsletter from the Township to its residents. Both I and the appointed clerk who was to take office on January 1, 2019, agreed that a note from the me would be appropriate. However, the farewell note was never published; when I inquired of the new clerk, Ms. Becky Chown why it was not put in the newsletter, she said it was on the advice of the Township Attorney, Mr. Mehn.

I would like to have this correspondence to my fellow residents placed in the minutes of this Town Board meeting (February 19, 2019), and thus, become part of the public discourse and record. Thank you.

"A Farewell Note From Your Elected Clerk—

Dear Residents of Peninsula Township:

It has been my honor and privilege to serve you over the past twenty-seven months as your elected clerk. I found my job extremely interesting, challenging, and rewarding, with work that was diverse beyond all my expectations. Most of all, I enjoyed representing you on some of the most difficult decisions facing the future growth of this Peninsula. Please know that I did my best to maintain a clear, objective, and informed view of the issues surrounding Town Board matters. In the end, my professional stand on matters affecting you, have caused me to retire early from my post. I ask you to stand vigilant in the decisions that are being made every day in the Township, because these decisions truly do affect your quality of life and rights as a property owner on the Peninsula. I also ask you to support the new clerk and deputy clerk, who will assume their demanding roles as public servants. Best wishes and fond farewell.

Joanne M. Westphal, Clerk
December 31, 2018"

5. **Approve Agenda**

Moved by Wahl to approve the agenda as presented, seconded by Bickle.

Passed unan

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. Invoices (recommend approval)
2. Reports
 - A. Peninsula Township Engineer Report
 - B. Fire Department Monthly Report
 - C. Fire Department Annual Report, 2018
 - D. Code Enforcement Officer Report through December 2018
 - E. Peninsula Community Library Monthly Report
3. Correspondence
 - A. Brian Thomas
 - B. Former Peninsula Township Park Commission
 - C. Benjamin Marentette
 - D. Attorney Greg Meihn regarding Open Meetings Act
3. Minutes from township board special meeting on January 10, 2019, township board special meeting on January 16, 2019, regular township board meeting and joint township board and planning commission meeting on January 22, 2019, and township board special meeting on January 31, 2019 (recommend approval)
4. Emergency medical services (EMS) fee increase (recommend approval)
5. Request to add Benjamin Bakker to the fire department roster (recommend approval)
6. Appoint Isaiah Wunsch as township board rep. to the steering committee to update the township's master plan
7. Internship authorization for Scott Rokos

Bob Boleck, 7398 Peninsula Drive, requested that item number A. be removed from the consent agenda. He would like to add to this report on the drainage that was installed that they have gotten the water off the road for the past 55 years, but water is still running by his property. There is still an issue with maintaining the ditch to take care of the water problem.

Manigold: referred this to Jennifer Hodges of GFA to investigate

Achorn: requested corrections to meeting minutes 1/16/19. Bottom of page 2 should read HSA. Minutes of 1/22/19 under item no. 9, Citizen Comments –Paradise Township. Minutes of 1/31/19, bottom of 1st page, GTCA and checks and balances; she requested that this sentence be clarified.

Moved by Bickle to approve the agenda as amended, seconded by Wahl.

Roll call

Passed unan

8. Business

1. Wastewater treatment plant refunding proposal (Bickle)

Bickle: requested that item number 8 be addressed first and introduced the County Treasurer, Heidi Scheppe, to present the new bond that is being proposed.

Meihn: requested that an appropriate motion be made to move item number 8 of the agenda up to item number 1.

Moved by Bickle to move item number 8 of the agenda under new business to item number 1, on new business, seconded by Wahl.

Passed unan

Heidi Scheppe, Grand Traverse County Treasurer, spoke about the resolution in the packet to approve the refunding of the Waste Water Treatment bond. In 2011, the township along with the city, Garfield, Acme, East Bay, and Elmwood Townships issued bonds for the city waste water treatment plant. There are only three years left on the current bond, and after the May payment, the bond balance will be \$6,480,000.00. She noted we have the opportunity, even though there are only three years left to refund, to generate a savings of approximately \$150,000.00, which will be dispersed back to the townships depending on the shares of the savings. We have the ability to send out an RFP to the banks that will generate some low interest bids. The benefit to this is that we do not have to go through the Standards and Poor's rating and we don't have to pay for additional bond counsel cost, and if we get a ~~\$140,000.00~~ **\$150,000.00** savings, then we can avoid going out for bond costing. Either way, this would be done if there was a savings and in order to do this the resolution has to be approved by the township.

Manigold: resolution was passed at the DPW. Each individual township and the city participating has to pass this resolution.

Moved by Manigold to accept Grand Traverse County's resolution to authorize funding of Grand Traverse County, Traverse City Waste Water Treatment Plant Upgrade Refunding Bonds 2011, seconded by Bickle.

Roll call

Passed unan

2. Proposed fire station number 3 (Gilstorff)

Gilstorff: presentation by Chief Gilstorff addressing issues of where we are weak in the township. He is looking to the northerly portion of the township to improve fire services and response times for the residents of Peninsula Township. Spoke about the ISO (Insurance Services Office) ratings that affect the cost of insurance paid out by the residents of the township. The township owns the subject property, (28-11-580-096-00 / 4025 Swaney Rd.), and the current structure located on this

property is not sustainable for use of a station. Modifications would have to be made to the structure in order for the building to be beneficial for a proposed station. The proposed structure would be 30 feet by 40 feet and would be moved to the westerly portion of the property. The cost of the new structure would run approximately \$76,500.00. Demolition of the current building would cost \$6,700.00. The overall price of this project would be \$83,200.00. Moving a truck in this area would improve the firefighters' response time with emergency services. Requested the board to approve Chief Gilstorff to seek RFPs. The first would be for the demolition of the existing building and then to work with Gourdie-Fraser's Jennifer Hodges to then go out for bids for the new structure.

Board discussion

Moved by Bickle to authorize Chief Gilstorff working with Gourdie-Fraser to go out for bids. Would like to have at least three bids, which will address the current facility and its demise, removal, and or build-up. Would also propose, once we have information back, that we set a public hearing to be held at a date yet to be determined.

Wahl: amended to add the public hearing should be held when summer residents are more likely to be here as there may be some backlash by the residents while they are vacationing. Motion seconded by Wahl. Passed unan

3. Request for approval to seek bids on a new tanker (Gilstorff)

Gilstorff: explained that there are five water sources on the peninsula. Most of them are boat launches, which are on-ramps. The current vehicle needs to park on the ramp in order to gain access to the water resources. This creates an issue as the current truck can only draft water from 20 feet away from the water source. Proposing to replace the current tanker with a vacuum tanker, which would allow them to draft water from up to 70 feet away from the truck. This vehicle is also manpower friendly, requiring less use of personnel. It also increases its capacity from a 2,000-gallon tanker to a 3,000-gallon tanker. The proposed truck will allow two loads compared to the one load of the conventional tanker that the township currently owns. Money is available in the fire budget for next year. Looking for a ten-year plan as the truck will cost around \$350,000.00.

Board discussion

Moved by Sanger to authorize fire chief to go out for bids for a new tanker, seconded by Chown.

Roll call: Manigold – Yes, Chown- Yes, Achorn – Yes, Sanger – Yes, Wahl – Yes, Bickle – No.
Passed 5-1

4. Lease contract to purchase new fire truck

Bickle: the firetruck that was approved for acquisition was on a ten-year finance option so instead of one check, this is split over a ten-year period. It is not a lease, just a finance. The payment

schedule was provided in packets. He is seeking the approval of the board so the clerk and supervisor can sign the necessary documents.

Moved by Bickle to authorize the clerk and supervisor to sign the agreement, seconded by Wahl.

Roll call: Passed unan

5. Surplus fire department vehicles (Gilstorff)

Manigold: talked about doing in the last meeting but was not clear in the minutes that we made the motion. We have two vehicles, the chief's and the snow plow truck, that we would like to declare as surplus to be sold.

Gilstorff: this would include the lights as the new vehicles would come with lights.

Moved by Bickle to declare these items as surplus, seconded by Wahl.

Roll call: Passed unan

6. Correct motion from 1/8/2019 meeting

Meihn: wanted a clarification of what was involved with this on January 8th, and how an issue was brought about and then he could legally guide the board on what the actions should be.

Mielnik: This issue was discovered when Clerk Chown was doing her synopsis on recent meetings to be published in the paper. It was discovered in looking back at the minutes from January 8th there was a motion on the farm processing amendment. It was amendment number 197 to the zoning code. In the material that was presented to the board, there was a list of three separate amendments to be made and during the meeting, Rob read all three of those pieces to be amended and described the motion as amending all three. In the minutes that were prepared and adopted, the motion that was made by Mr. Wunsch indicated only one of the three sections. Reviewing the tape from that meeting, there was a clarifying question that was asked by Rob if he meant all three and the answer was yes. So, we have a situation where the minutes were approved but do not reflect the action that was taken, so in discussion with Mr. Meihn, we have a modified amendment to the motion.

Meihn: requested that Mielnik identify all three that were supposed to be a part of the amendment.

Mielnik: they are listed in the minutes under the discussion from Mr. Manigold as he read all three of the sections to be changed; they are sections 6.7.2.19.b.4 number 2, the second was 6.7.2.19.b.6.5, and the third was 6.7.2.19.b. number 6.

Meihn: outlined from the Open Meetings Act that a public body shall make corrections to the minutes at the next meeting after to which the minutes refer. This was a January 8th meeting. Those corrections should have been made at the next previous meeting so we are beyond that time frame by a few meetings. Those minutes usually become final and as a result you are subject to the Open Meetings Act to make any corrections at all to minutes that you have previously approved. However, under Robert's Rules of Order, eleventh edition, which is recognized in the state, if the existence of an error, material, or omission becomes reasonably established after approval, even many years later, the minutes can then be corrected by what is called a motion to amend something previously adopted. It does require two-thirds vote or a majority vote or a vote of the majority of membership or unanimous consent. Discusses the appropriate motion.

Moved by Sanger to amend the January 8th decision regarding zoning amendment 197, which was adopted on January 8th, to provide all three sections of the ordinance be included in said motion, those sections being 6.7.2.19.b.4, 6.7.2.19.b.6, and 6.7.2.19.b.6. Motion seconded by Bickle.

Roll call: Passed unan

7. Resolutions of support and authorization for improvements at Bowers Harbor Park via the Michigan Natural Resources Recreation Passport and Michigan Natural Resources Trust Fund (Hodges)

Hodges gave a history of the DNR Trust Fund grants that were applied for in 2018 and the DNR approval ratings for each of these grants. Looking to apply for these grants again for 2019, which requires new resolutions approved by the township board. Requesting to reapply not only for the DNR Trust Fund grants but also including resolution to apply for the Passport grants as well. This is the same 50 percent matches as previously. These are due by April 1st.

Board discussion

Manigold: whereas, Peninsula Township supports the Department of Natural Resources' (DNR) submission of an application titled "Bowers Harbor Park Improvement Project" to the Michigan Natural Resources Recreation Passport for development of improvements to the playground equipment at Bowers Harbor Park.

Moved by Wahl to approve the above stated resolution, seconded by Bickle.

Roll call: Passed unan

Motion amended by Wahl to include the amended date of February 19, 2018, seconded by Bickle.

Roll call: Passed unan

Manigold: whereas, Peninsula Township supports the Department of Natural Resources' (DNR) submission of an application titled "Bowers Harbor Park Expansion Project" to the Michigan Natural Resources Recreation Passport for development of trails and parking at Bowers Harbor Park.

Moved by Wahl to approve the above stated resolution to include the amended date of February 19, 2018, seconded by Bickle.

Roll call: Passed unan

Manigold: on the resolution of Support and Authorization, whereas Peninsula Township supports the Department of Natural Resources' (DNR) submission of an application titled "Bowers Harbor Park Improvement Project" to the Michigan Natural Resources Trust Fund for development of improvements to the playground equipment at Bowers Harbor Park.

Moved by Wahl to approve the above stated resolution to include the amended date of February 19, 2018, seconded by Bickle.

Roll call: Passed unan

Manigold: whereas Peninsula Township supports the Department of Natural Resources' (DNR) submission of an application titled "Bowers Harbor Park Expansion Project" to the Michigan Natural Resources Trust Fund for development of trails and parking at Bowers Harbor Park.

Moved by Wahl to approve the above stated resolution to include the amended date of February 19, 2018, seconded by Bickle.

Roll call: Passed unan

8. Proposal for civil engineering services for the Bowers Harbor Expansion Trail (Hodges)

Manigold: Explained that Traverse City Track Club donated \$25,000.00 to support the project of the Bowers Harbor Expansion to the trails. The township also approved a \$25,000.00 match to that project. The \$50,000.00 still needs to be used for a handicap accessible trail to connect to the existing trail. Requesting approval for Jennifer Hodges to go out for bids to complete this project.

Board discussion

Moved by Wahl to approve civil engineering services for Bowers Harbor Expansion Trail, seconded by Manigold.

Roll call: Passed unan

9. Bids for tree removal at the lighthouse (Mielnik)

Mielnik: last year the township requested an assessment on the forestry around the lighthouse. They came back with a report that identified a number of trees to be removed and pruned with a map indicating an outline of the work that needed to be completed. Some of this work could be done by Bob Wilkinson, which left a number of other projects that still needed to be completed by an outside contractor. Request for bids was published and four bids were received and a fifth one was received past the deadline date. The lowest bid was from Brothers Tree Services. Mielnik has contacted the references listed by them; insurance verification is still needed for this proposal.

Board discussion:

Moved by Wahl to approve Brothers Tree Services, Smith Road, Traverse City, for the amount of \$6,600.00, to cut the dangerous trees at the lighthouse and allow the supervisor to sign the contract, seconded by Sanger.

Roll call: Passed unan

10. Resolution to establish a new park board (Meihn)

Meihn: in the packet is a resolution to approve the new parks committee.

Manigold: read the resolution into the record (the signed and approved resolution is on file in the clerk's office).

Wahl: requested corrections on the spelling of Manigold's name and requested clarification of the length of members serving on the committee.

Meihn: clarified

Moved by Wahl to approve Peninsula Township creating parks committee without the first paragraph and the correct spelling of Manigold's name, seconded by Bickle.

Roll call:

Passed unan

11. Oral report from the advisory personnel committee regarding FLSA compliance

Meihn: requested that before this item is addressed, he wants to outline changes to the OMA and the FIOA. He then presented power point presentations with handouts; this was an update and training for the board of trustees. Meihn's presentation is available in the packet for full review.

Meihn: reminded the board that in December when previous Clerk Westphal was getting ready to vacate her seat, this board had received a second complaint of bullying and inappropriate treatment. The supervisor was given a copy of the report, which was distributed to the trustees. A FOIA request was received from the newspaper that has been complied with, but in that investigation, the individual decided not to move forward with the complaint because the former clerk decided to resign. A couple of issues were raised that are concerning. These things deal with complaints from Christina and Susan that they had not been properly compensated for time that was worked. An email was received from the former clerk that she was following procedures that had been in place by the prior group. Those prior processes and procedures that were claimed to be followed were not verified by Meihn. Marge Achorn was also questioned by the former clerk on time records kept and asked to provide those that she believed she did not have to provide as an exempt employee. Meihn outlined that if you have an hourly employee working more hours than that individual is compensated, then there is a Department of Labor Fair Standards problem regardless of past practices or handbooks. Susan provided undisputed documentation of denied unpaid compensation to Counsel Meihn in the amount of \$936.91 for times when she was not paid for missed lunch time. Meihn recommended that the board approve compensation to Susan for these past wages. Christina provided undisputed documentation for time that she had worked through lunches and was not compensated that came to 207.71 hours at her rate of pay, which was \$5,645.56. Communication was received from Mr. Rowe as related to these issues. Meihn's understanding was that he is aware of this issue also. This is being brought to the board through Meihn's investigative process. No documentation has been discovered by the new clerk to dispute these claims. Meihn has found no basis to dispute the claims of these hours. Meihn then read into the record: "When this initial was broached from me to the former clerk in the email of December 5th the response was the payroll hours and practices that Christina and Susan refer to have been ongoing nightmare for the clerk's office. The policy set was from the previous administration of Hoffman and Hamilton. Brenda and I did not create new policies and or practices. The new policy handbook that I have worked on for over a year addresses the many issues that were absent in the old handbook. I worked very hard to get the new handbook passed so we could be in

compliance with FSLA (and then there are references to other people) that has helped me with that.” It doesn’t matter what previous practices were; you don’t deduct pay when people work through lunches and you don’t refuse to pay them. The consequences are enormous. They can be double penalties, twice the amount with attorney fees and a complete audit by the Department of Labor.

Bickle: asked for clarification of Susan’s hours worked.

Meihn: clarified she had it as 147 days worked. She estimated 10 minutes or greater minutes each of those days that she was pulled from lunch to handle the public’s business. This was from May of 2017 to April 2018 and from April 2018 to April 9, 2018. She has 15 days.

Bickle: clarified that these amounts would get these employees caught up.

Meihn: explained that this whole situation with Christina in making her an hourly employee when she was really an exempt employee would go away. Meihn explained the importance of maintaining time sheets for all employees, both exempt and non-exempt.

Board discussion

Sanger moved that the board compensate Susan Peihl in the amount of \$936.91 for compensation for past unpaid and further to compensate Christina Deeren \$5,645.56 for past compensation unpaid, seconded by Bickle.

Roll call: Passed unan

Meihn: informed the board of another complaint received from Deputy Clerk Robin Noval regarding time sheets she had submitted to the former clerk. Some of the times that were reported as worked were cut and red-lined through on the time sheets and she was not compensated for these specific hours.

Moved by Bickle to support Mr. Meihn’s dialogue with Robin so that he can conduct an appropriate investigation of time and time that has been cut or monitored back against what was actually worked, seconded by Wahl.

Passed unan

A. Discussion regarding exempt and non-exempt staff (Sanger, Meihn)

Meihn: gave a power point presentation that is available in the packet for full review. This was an outline of proper classification of employees.

B. Update on claims by employees regarding overtime (Sanger, Meihn)

Meihn: gave a power point presentation that is available in the packet for full review. This was an outline of exempt and non-exempt employees’ compensation for overtime.

12. Oral report from advisory employee handbook committee

Meihn: gave an update on the status of the employee handbook.

9. Citizen Comments

Monnie Peters, 1425 Nehtawanta Rd., asked Mr. Meihn questions pertaining to the Open Meetings Act and the way the planning commission has been run since she has been a member. Asked if a policy can be created that all committee meetings be opened?

Meihn: Replied “Absolutely; the best practice is every meeting regardless of title is served best by public involvement.” In agreement with using best practices.

Ann Griffiths, 14458 Bluff Rd., Traverse City, commented that the park commission has been established but a quarter of the year is gone and the parks commission has not yet begun. The budget is coming up in March and there is an employee that she feels is not competent to be running around on her own making financial decisions basically unsupervised.

Manigold: noted that this individual is a township employee.

Griffiths: said she is looking for the board to take over and the board needs to get going.

10. Board Comments

Meihn: when the former clerk was here and indicated she wanted to read into the minutes her letter that was provided to the clerk (Chown), she made a comment that the new clerk indicated that it wasn't posted in the newsletter because of comments or statements or my advice. As the board knows, I do not make decisions, only give advice, but this comment was already made at the last meeting that she had attended. Secondly, when newsletters were reviewed since 2013, you do not have reader comments of a pejorative nature by certain people against certain people. You have a newsletter that provides information and when you read the comments that say, “Please know that I did my best to maintain a clear objective and informed view of the issues surrounding town board matters, in the end my professional stand on matters affecting you, have caused me to retire early from my post,” that is not informational, that is a defensive, pejorative comment that is designed to try to place blame or discord somewhere and you don't allow those types of comments in your newsletters at least since 2013. Everyone could send in comments about others stating bad or indifferent things. The proper form was what was used prior. That was the advice given to the clerk. Just wanted to clarify that this letter from the former clerk was not denied to the public.

Manigold: update on the union contract with Gilstorff, which is signed and all good. School is getting items donated by the library and requested that these items be stored in the basement. Susie Shipman representing the school board requested that the township be named in an emergency situation as a meeting place.

11. Adjournment

Moved by Wahl to adjourn, seconded by Sanger.

Passed unan

Adjournment time 9:55 p.m.