

PENINSULA TOWNSHIP

13235 Center Road, Traverse City
MI 49686

www.peninsulatownship.com

Township Board Regular Meeting

March 8, 2022, 7:00 p.m.

Township Hall

Minutes

1. **Call to Order** by Manigold at 7:00 p.m.
2. **Pledge**
3. **Roll Call**
Present: Sanger, Wahl, Manigold, Chown, Achorn, Wunsch
Excused Absence: Bickle
Teleconference line: Meihn, township attorney (7:05 p.m.)
4. **Brief Citizen Comments (for agenda items only):** none
5. **Approve Agenda**
Discussion on proposed pickleball courts was added under business as item C.
Sanger moved to approve the amended agenda with a second by Wahl. passed unan
6. **Conflict of Interest:** none
7. **Consent Agenda:**
 - A. Invoices (the initial set of invoices has been carried forward from the February 22, 2022, cancelled meeting; the second set is newly created; recommend approval)
 - B. Reports
 1. Peninsula Township Parks Committee for January 2022
 2. Peninsula Township Treasurer for January and February 2022
 3. Peninsula Community Library for February 2022
 4. Peninsula Township Fire Department for February 2022
 5. Peninsula Township Ordinance Officer for February 2022
 6. Grand Traverse Sheriff's Office Citation, Accident & Arrest Statistics for February 2022
 - C. Minutes from January 25, 2022, Township Board Special Meeting and February 8, 2022, Township Board Regular Meeting
 - D. Correspondence
 - A. Teri Hedrich
 - B. Eric Bergsma
 - C. Dawn Hemming
 - D. Mike Skurski

- E. Dawn Hemming
- F. Laura Waddell-Serocki
- G. Marge Achorn
- H. David P. McClary
- I. Don Switzer
- J. James Johnson
- K. Gerald R. Brown
- L. John Haggard
- M. John Haggard
- N. Ward Johnson
- O. Jim Raphael

- E. Request from Old Mission Peninsula Historical Society to hold Log Cabin Day on June 26, 2022, at Mission Point Lighthouse Park
- F. Request from Peninsula Township Fire Department to donate surplus equipment that does not meet National Fire Protection Standards to the Northwest Regional Fire Training Center for use by students
- G. Purchase of Development Rights 2021 Monitoring Report (recommend acceptance)
- H. Ordinance No. 55 Granting Franchise to TCL&P for 30 Years (previously approved but paperwork not filed so re-approving)
- I. Grand Traverse County Road Commission's new cost-sharing plans per its March 1, 2022, meeting
- J. Grand Traverse County Road Commission's proposal for Bluff Road per its March 2, 2022 meeting

Wunsch moved to approve the consent agenda with a second by Wahl.

Roll call vote: Yes-Sanger, Wahl, Manigold, Chown, Achorn, Wunsch passed unan

8. Business:

- A. Waiver request regarding Peninsula Township Resolution No. 01-02-2022 #1 from Walter Brys (Note: the resolution is actually No. 01-**03**-2022 #1 as No. 01-02-2022 #1 does **not exist**)

Manigold: Walter is requesting he be allowed to apply to the planning commission during the moratorium. The Brys Winery request for a waiver is subject to the following terms of the moratorium [Manigold read the following excerpt aloud from the moratorium]:
"Section 7. Waiver - In the event that a landowner in the agricultural district will suffer immediate and irreparable harm for the short duration of this resolution, or this resolution otherwise violates applicable provisions of the state or federal constitution or other applicable law, a township owner may apply for and request a waiver of the moratorium from the township and request a hearing regarding the same. The burden of demonstrating the validity of such a waiver is on the township landowner and in the event the landowner demonstrates a valid waiver under this section, the township may grant a deferment of the moratorium to the degree necessary to cure the immediate and irreparable harm." Our review tonight is to determine whether the landowner demonstrates immediate and irreparable harm by being delayed in taking anticipated

action due to the moratorium. We have received a letter from Brys regarding the request. Again, the burden is on the landowner.

Meihn: the question before the board is if this request will prevent immediate and irreparable injury.

Manigold: this project was started just before the moratorium was enacted. Brys requested their \$5,000 fee be returned and stopped the process.

Achorn: the township returned \$4,400 to Brys. Gourdie-Fraser has already done \$600 worth of preliminary work on the project site plan. This was for the site review, storm water review, overall ordinance compliance review, and final comprehensive plan review as fully described in the proposal letter dated October 20, 2021. This work will most likely not have to be redone once this moratorium is over.

Wunsch: I am not seeing immediate and irreparable harm here. This request is not due to erosion, an act of god, structural changes, or a zoning variance. I can empathize, but I do not see the immediate harm.

Sanger: could you give me a summary of the project that was still in the planning commission's hands and the timeline they were following?

Manigold: the project came up in November 2021 as I remember and then the planning commission did not meet in December. The moratorium was passed in January 2022.

Wunsch: the request was to enlarge an outdoor patio by about 50% using hardscape and additional decking for outdoor service.

Manigold: Brys was asking for grass pavers to expand the parking lot under the special use permit.

Wahl: it sounds like the work done by Gourdie-Fraser will still apply going forward after the moratorium is over.

Chown: when someone asks for an extension to an outdoor deck or a new outdoor deck, does that addition become part of the building structure?

Wunsch: yes. And any extension to a service area, whether it is new or to add on to an existing deck, would require an amendment under the chateau special use permit.

Chown: **I move we deny the waiver under the moratorium because there has been no indication of immediate or irreparable harm by delaying the requested action for the remaining period of the moratorium, which is approximately four months. Achorn second.**

Roll call vote: Yes-Sanger, Wahl, Manigold, Chown, Achorn, Wunsch passed unan

B. Update on Winery Lawsuit (Meihn)

Meihn: we are in the last 30 days of the reply brief. What normally happens is a summary judgement is filed, and the defendant replies, and we then reply. We filed our motion for summary judgement, the wineries filed their response, and we filed a response last week. We are still scheduled for our April hearing in federal court. I will be working with the clerk to get the specific information as to the date, time, and location out to the community. With Covid waning, the federal court is now wide open. People will be able to enter the courthouse. Several other items have been resolved. Thanks to the work of the zoning administrator and enforcement officer, the McManus issue has been resolved. In addition

to the fines and fees, we have agreed there will be an actual engineering report. We also won the case that was brought against a ZBA decision by Acme Pen.

C. Pickleball Court Discussion (added to agenda)

Chown: we received a letter from Dawn Hemming last night and were asked to read the content into the minutes [see letter at end of minutes and site plan for pickleball court placement from township engineer]. Chown read letter.

Manigold: in January 2022, a group of pickleball enthusiasts came to us and said they had a great need, desire, and funding for additional pickleball courts. The board moved quickly and asked the township engineer to start the preliminary plans, which they needed to go to several organizations for grants. We provided a workable site plan and are working with their representative, John Sprenger from Molon Construction, who is providing some of the construction work for free. Sprenger gave the group an estimate of \$350,000-\$500,000 for the project. Gourdie-Fraser's estimate is \$400,000. Originally, we were trying to put eight pickleball courts around where there is Little League, volleyball courts, a basketball court, and old tennis courts. In the original master plan, pickleball was not even listed. We are pushing the ice skating people out to make this happen. We want to make sure the soccer moms are happy. The volleyball and the tennis players, who have had courts in Bowers Harbor for a long time, need to be happy. This is township property and we are going to need a public hearing on this issue.

Chown: Repairing the tennis courts was not an original requirement because we did not know we would need to use that location to fit in six to eight pickleball courts. While Bowers Harbor seems like a large space, many activities are already ongoing. We have to work with the township engineer, the master plan, and the rest of the people who use the park. We do not want to eliminate any of the activities already taking place.

Manigold: we are getting concern from residents about the smell of the toilet and people now want flush toilets installed. This would require a drain field added into the mix of an already high use area.

Achorn: originally when they came to us, we were told there would be no cost to the township. We have spent \$6,250 with Gourdie-Fraser to get the engineering report to the group to apply for the grant in time. This group should pay this cost in the same way the baseball group paid for the planning of the baseball diamond.

Sanger: has this issue gone before the parks committee?

Chown: no, due to time constraints [to meet the grant deadlines], but the chair of the committee, Mike Skurski, has been in close contact with Dawn Hemming through email and phone calls.

Sanger: my concerns is that we are trying to make this happen for June 2022. The use of these courts is going to go on for years and we need to look at other issues such as parking. Individuals are parking on Bowers Harbor Road instead of the parking lot as it is closer to the courts. There is the issue of noise. Why are we creating a greater intensity of use in a place where the tennis courts are now? Are any trees going to be cut down?

Chown: no trees are to be removed for this project.

Sanger: what is the process going to be for the public to express their views like I am doing

here tonight in regards to parking, noise, trees, bathrooms, and intensity of use?

Wahl: neither the tennis players nor the pickleball players like the double striped courts. It would be better to have separate courts.

Wunsch: have other grants been explored for the other activities?

Manigold: when the pickleball people came to us, we were in the middle of working with the hired consultants from LIAA about a potential opportunity for a millage. We are working on grants for the bathrooms. We will continue with the process.

9. Citizen Comments

Armen Shanafelt 7402 E. Shore Rd.: the discussion on the pickleball courts shows an understanding of the multiple uses at the park. The world does not revolve around pickleball. It is just one use in a multi-use area. This issue will not be solved tonight, but I hope the pickleball group can work collaboratively with the other interested parties.

Tristen Cole: I am a former state representative and I live in Antrim County in Bellaire. I just wanted to introduce myself. I am running for state senate in the 37th district.

10. Board Comments

Chown: the parks survey is still available to take on the township website under Participate Old Mission through Monday, March 14, 2022.

Manigold: please review the information in the packet from the road commission. There are several suggestions on how to repair Bluff Road. We have the assessor, zoning administrator, and the Gourdie-Fraser engineer all taking a look at these proposals.

11. Adjournment

Chown moved to adjourn the meeting with a second by Wahl. passed unan

Meeting adjourned at 8:57 p.m.