

PENINSULA TOWNSHIP

13235 Center Road, Traverse City
MI 49686

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Township Board Regular Meeting and Joint Township Board and Planning Commission Special Meeting

April 11, 2023, 7:00 p.m.

Township Hall

Minutes – **Corrections made
by the clerk 05-23-23**

1. **Call to Order** by Wunsch at 7:00 p.m.

2. **Pledge**

3. **Roll Call**

Town board: Wunsch, Achorn, Wahl, Sanger, Rudolph, Shanafelt, Chown

Planning Commission: Couture, Shanafelt, Hornberger, Dloski, Alexander, Hall, Shipman

4. **Citizen Comments:**

Jordan Valdmanis, 16330 Peninsula Drive: in regard to SUP #35, Amendment #2, would like to share an overview on recent activities. Is this the right time?

Wunsch: as the applicant, you will get time under business to present.

T. J. Andrews, Grand Traverse County Commissioner District 7: regarding the resolution to support the Traverse City Transportation Initiative, that issue has come before the county commission a couple of times. We tabled it at our last meeting in part because Peninsula Township was not included in those documents. I'm pleased to see it on your agenda today. Our community is growing substantially. We now qualify for this designation, and it will bring federal dollars into our community. Transportation is a huge issue in all communities across our county and in particular this township. I'm pleased to see you at the table. Thank you.

5. **Approve Agenda**

Wahl moved to approve the agenda with a second by Sanger.

Approved by consensus

Hornberger moved to approve the agenda with a second by Dloski.

Approved by consensus

6. **Conflict of interests:** none.

7. **Consent Agenda:**

1. Invoices (recommend approval)

2. Reports

A. Cash Summary by Fund

B. Peninsula Township Fire Department

C. Ordinance Enforcement Officer

3. Minutes from February 14, 2023, Township Board Regular Meeting

4. Peninsula Township Fire Department request to donate surplus gear

5. Peninsula Township Fire Department request

6. Correspondence
 - A. David Shambaugh
 - B. Kent E. Gerberding
 - C. Betsy Coffia
 - D. Ronessa Butler
 - E. Dave Murphy
 - F. George and Carroll Kobernus

Ahorn: there is a typo in the March 30 3:00 p.m. minutes. On the last page, last paragraph, three sentences up. "The owner threatened to 'use' us." It should be "sue."

Wahl moved to approve the consent agenda as presented with a second by Chown.

Passed by consensus

8. Business

1. Joint public hearing with Peninsula Township Planning Commission on Zoning Ordinance Amendment #203, Roadside Stands, with potential for adoption (Cram and Shipman)

Cram: in an effort to align our zoning ordinance with the Right to Farm Act and the Farm Market GAAMPs, we are proposing some amendments to our zoning ordinance under both section 3.2, "Definitions," and section 6.7(8), currently called "Roadside Stands." These amendments were shared with the planning commission at its special meeting on March 6 and with the township board at its regular meeting on March 14. We also shared them with Ryan Coffey Hoag, chair of the Farm Market GAAMPS Selection Committee, for feedback. The proposed amendments in today's packet address all the comments we've heard to date. This evening we welcome public comment on the amendments and a discussion with the planning commission and board. This has been advertised as a public hearing. The planning commission could recommend approval to the board and the board could then take action. I would be happy to answer any questions about the proposed amendments, and I'm very interested in hearing from the public.

Shipman: thank you, Jenn. There was a really good discussion around this item. You covered all the potential issues.

Chown: a redlined version of both the definition and the ordinance are available on the website so that everyone can see the changes. The version in the packet is a clean version. Also, this is probably the last time we will see the words "roadside stands"; it will be "farm stands" going forward, correct?

Cram: yes, that's correct. A recommendation from the planning commission that the board agreed with was to change the name to "farm stands" to better align with the farm market GAAMPS. We also defined a farm stand to be an accessory use to the act of producing farm products. This is consistent with how we handled our amendments to farm processing facilities. We removed the maximum square footage requirement for structures. We clarified what may be sold and what processed products are. We updated the standards for where a farm stand may be located. We included information to help applicants understand what other permitting may be required as part of the use.

Chown: just in time for spring and summer produce. I am proud of this. Thank you.

Cram: existing roadside stands that were permitted by Peninsula Township would be grandfathered in. I would love to talk to farmers and operators to see if their roadside

stand is compliant. Our number one concern is public health, safety, and welfare. I believe everybody agreed that farm stands should be located outside of the right of way, that there should be enough room for cars to pull off the roadway and park to do their shopping. If there are existing roadside stands that are grandfathered in, I'd love to work with people to bring them into better compliance specifically for those safety reasons. I look forward to seeing land use permits come in for for new farm stands this summer.

Hall: I have a couple of technical points. In the draft ordinance, section 8, (e) and (f) should be reversed to follow the logic of the GAAMP. In the definition of farm market, the reference to the 50 percent production requirement comes before the section on processed products. Next, 8 (c), is confusing and can be cleaned up. It presently reads, "The farm stand may be located on a parcel controlled by the farm operation that is not engaged in active production." I think, "that is not engaged in active production" is intended to modify the parcel where the farm stand is located, but because of where it appears in the sentence, it's not clear. I recommend it be reworded to read, "The farm stand may be located on a parcel that is not engaged in active production." That's really what we're talking about, provided the parcel is owned or controlled by a farm operation that controls other parcels within the township that is engaged in the active production of farm products. That would eliminate the ambiguity.

Cram: I appreciate that recommendation. What we're trying to allow is if a farmer owns more than one parcel in Peninsula Township and is not farming the parcel where their home is but it has better visibility for people driving by, they can locate their farm stand where they have the greatest visibility. We also want to make sure the farm stand is accessory to the active production of crops. That clarification would help to make sure everybody understands the intent.

Chown: clarifying question: do farm stands that are grandfathered in still need to come in for a land use permit?

Cram: we should talk about that. I don't want to be onerous, coming up on the busy season. If they received a land use permit and are in compliance, then they would not need to come in for a new permit. I welcome a conversation if they want to see how what they have compares to the new rules and if there are any easy fixes to make it safer, but I want everybody to know that if they were permitted, they are grandfathered.

Shanafelt: the operational words are, "In compliance with their permit."

Cram: this amendment is actually more flexible, so they may want to come in.

Rudolph: this is an evolutionary process. The first discussions related to GAAMPS and farm markets and how we can promote more agriculture on the peninsula started with the agricultural committee more than a year ago. This is one of the first things that has come out of that and it's very positive. Thank you for all the hard work.

Cram: I'm looking forward to the next amendments related to supporting agriculture. We will be talking about limited processing kitchens, hopefully as a use by right.

Wunsch: it's great you started with this; it provides flexibility for producers.

Wunsch closed the regularly scheduled meeting and opened the public hearing on Zoning Ordinance Amendment #203, Roadside Stands.

Monnie Peters, 1425 Neahtawanta Road: Randy [Hall], your wordsmithing was really good. Trying to get our farm stands to have better parking and get them off the road right

of way would be good. Some of them are fine; some of them are not.

Wunsch closed the public hearing on Amendment #203.

Dloski moved to recommend approval to the township board of Zoning Ordinance Amendment #203, Farm Stands, with a second by Alexander.

Motion approved by consensus

Wahl moved to table approval until the May 9 regularly scheduled meeting with a second by Sanger.

Motion approved by consensus

Couture moved to adjourn the planning commission meeting with a second by Dloski at 7:24 p.m.

Motion approved by consensus

2. Public hearings on SUP #35, Amendment 2, for the Seven Hills development (Cram)

Cram: the Seven Hills development, LLC, Special Use Permit #35, Amendment #2, was introduced to the planning commission on November 21, 2022. The planning commission held a public hearing on December 19, 2022, and recommended approval at a special meeting on March 6. The minutes from that meeting are included in your packet. The request is to amend the special use permit. The original permit was approved on February 9, 1993. It included four buildings for various professional offices and related storage. On May 11, 2021, the township board approved the first amendment to SUP #35 that reduced the total number of buildings from four to two and allowed very specific uses: a restaurant tavern in the front or eastern building, retail offices and storage in the back or western building, and associated parking drainage facilities, lighting, and landscaping.

The applicants are now requesting a second amendment to that special use permit. They would like to expand the capacity of the restaurant tavern from 32 patrons to 70 and to allow for outdoor uses in a defined area that includes seating, consumption of food and beverages, yard games such as cornhole and horseshoe, fitness classes, and gatherings. The proposed outdoor uses may utilize amplified sound.

The parcel is 2.05 acres and zoned C1. All the proposed uses and existing approved uses are in compliance with the zoning ordinance. In the staff report, I cover all the findings from section 8.1.3, general standards. One of these findings is (a) "that the project be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed."

The planning commission discussed the outdoor uses. All the discussions the planning commission and board have had of late are about mitigating negative impacts. There's very little concern with uses that are conducted indoors, but the outdoor uses are different. Because of the topography of the peninsula, noise travels. There's the potential for sounds and smells and things like that. We have to approach outdoor uses a little more carefully. In order to be in compliance with general standard (a), we felt it was important to discuss the hours of operation for outdoor uses. The applicants requested they be open outdoors till 10:00 p.m. Sunday through Thursday and 11:00 p.m. on Fridays and Saturdays. The planning commission tried to come up with a reasonable solution, knowing that there are residences very close to this establishment. They landed on a recommendation to include a condition of approval to cease outdoor operations by 10:00 p.m. seven days a week and to require the applicant to follow our noise ordinance as amended. That condition of approval carried forward in the findings of fact and conditions

included in your packet.

The applicant has adequate water sewage disposal. Several things were considered in looking at expanding the capacity, which was based on making sure all the uses they propose have adequate parking. They provided a detailed use plan [shown on PowerPoint]. You can see the back building where the existing Tinker Studios is. There would be an office that could be rented and another office that has a bathroom. I believe that office will be used by the LLC. There is designated storage for the restaurant tavern. There will be a one-seat hair salon. The whiskey coffee bar, what our ordinance calls a restaurant tavern, is in the front building. We designated space for the kitchen and separated the market retail space because these uses have different parking requirements. The restaurant tavern is required to have one space per 75 square feet, whereas the general retail art studio use is one per 150. The required parking for the proposed uses as demonstrated is 55 spaces, and the site plan provides for this.

We also considered the capacity of the on-site septic system. We had very intentional conversations with environmental health. They assured us that the onsite septic system is designed for the proposed capacity of 70. They made it very clear that 70 is the capacity both inside and outside. The number of patrons who can visit the establishment both indoors and outdoors at any time, to be in compliance with the environmental health requirements, is 70. They have adequate water, sewage disposal, and access.

With the first amendment, they were required to make some access improvements to Seven Hills Road. Those have been completed per the Grand Traverse County Road Commission. The applicants have proposed a lighting plan that generally meets standards. Some additional detail will be needed to approve the use, but we can see they'll provide appropriate lighting to provide safety for their patrons and will follow the lighting ordinance, section 7.14, to make sure it is dark sky compliant, downcast, and shielded. They've met all the requirements of the zoning ordinance. I was feeling very good about the conversation with the planning commission and moving the application forward to the board for approval. As noted, the special meeting with the planning commission was held March 6. On March 20, we received a letter from the Michigan Liquor Control Commission [MLCC] that the applicants are applying for a small winemaker license. We were loosely aware that they had already requested and have been conditionally approved for a distillery, and the board allowed for a tasting room associated with that distillery. In talking through what this new request means, the question came up, is it compliant with our zoning ordinance? I had some conversations with Andrew, the investigator for their applications. It became very clear that both of those liquor licenses – the small distiller and small winemaker – include manufacturing and/or processing in order to be in compliance with that use. When I compare that to our zoning ordinance, section 6.6, the C1 requirements, nothing discusses manufacturing and processing. I've had initial conversations with legal counsel. There is some concern. I believe we're all comfortable with the approval that has been granted thus far to allow for the restaurant tavern, but regarding the liquor license that they need in order to fulfill the tavern function, there's some inconsistency with the Michigan liquor license requirements and what our zoning ordinance allows.

I did not want to catch the applicants off guard. I let them know there was a concern and

that the board would have some questions about how this all functions. I asked them to be prepared to discuss that this evening. I know Jordan [Valdmanis] is very excited to help shed some light. I believe we have more to learn from the MLCC, our legal counsel, and further discussions with the applicants regarding this matter. I'm comfortable with everything else. I believe it meets the zoning ordinance with regard to capacity and the uses that are proposed, but we do need to address this issue.

The full findings of facts and conditions are included in the packet. We addressed section 8.1.3 (1), the general standards, as well as section 8.1.3 (3), the specific requirements. There are proposed conditions of approval in your packet on pages seven and eight. I did add a condition of approval after the planning commission anticipated some of the MLCC comments that the site plan and landscape plan will need to be updated to formally delineate the outdoor service area. The MLCC will require that as well. We want to make sure that what the MLCC has is consistent with what we have. I also added the [planning commission] recommendation about the hours of operation.

Shanafelt: looking at this, where are the restrooms for the tavern?

Cram: in front of the storage. They're not indicated here because I had to count that in the square footage for parking. There were certain things I could extract such as storage or mechanical, but everything else had to count towards parking. They are shown on another floor plan provided during the planning commission review.

Jordan Valdmanis, 16330 Peninsula Drive: there's been a lot of back and forth between Jenn [Cram] and Isaiah [Wunsch] and Troy and me today. I will try to summarize our thoughts and emails. Since closing on the property on February 16, 2021, we've been working closely with members of the township and all other required government agencies to work through the outdated zoning in Peninsula Township in conjunction with the right to use for the property at 13795 Seven Hills Road. Throughout this time, we have worked with two different township planners, two different township supervisors, and board and attorney changeover throughout the township. There are only a few C1-zoned properties within the township, most without SUPs. We understand and greatly appreciate the extensive detail that Jenn Cram is responsible for, and we feel we have provided all the necessary documents requested.

We received approval for SUP #35, Amendment #1 on May 11, 2021, stating that we can open a restaurant tavern with up to 32 patrons as well as [undertake] other uses outlined in the SUP. At this time, we applied for a small distiller's tasting license for our tavern. We are not manufacturing these spirits on site, only processing them, which means filling bottles from manufactured spirits off site for resale at our bar and for retail. All distilling and manufacturing will take place in an off-site bonded facility outside of Peninsula Township that we have partnered with in Traverse City. We applied for this specific license knowing the current zoning in C1 does not allow for an on-site distillery. This license was talked about and approved by the township board on January 6, 2022. Based on these approvals, we purchased more than 6,000 bottles and labels. Our manufacturing partner has produced hundreds of gallons of spirits for our operation and is ready to bottle. We have hired and relocated staff from around the state to facilitate this operation in the coming months. We have spent more than \$1.5 million on the purchase and construction of this tasting room over the last two years.

As construction progressed, we realized the need for outdoor uses and increased capacity. We applied for SUP #35, Amendment #2 to increase our capacity. That's why we're here tonight. We submitted it in October 2022 with an introduction November 2022 at the planning commission meeting. The January meeting was canceled due to weather and February was canceled because there was not a quorum. Working closely with Jenn Cram to provide all the necessary documents that were requested, we finally were able to receive approval from the planning commission at the March 2022 meeting. We are here tonight to help answer any questions and look for your conditional approval this evening. Two issues have come up in the last 24 hours. The first is hours of operation. We asked for approval to close at 10:00 p.m. on weekdays and 11:00 p.m. on Fridays and Saturdays. We are asking for conditional approval for these hours on a one-year probationary period. If there are any valid complaints, we are happy to decrease these hours to 10:00 p.m. seven days a week as recommended by the planning commission.

Item number two came up today at 2:30, I think. Our small distiller's license was approved by this board with other members and a different supervisor on January 6, 2021. This has not changed and we will abide by the township ordinance and use in our operations. We seek conditional approval for use of our small distiller license and [small] winemaker license as long as no manufacturing is done on site. We abide by all other township ordinances. As we've gone through this process, [working with] Grand Traverse County soil erosion, the outdated ordinance from Peninsula Township, so much wording that doesn't match up with the MLCC, not only in this project but in other landscape projects I'm involved in, we've been able to work through those items. It is a requirement from the MLCC to have a still on site. It is not a requirement from the MLCC to actually distill on site as long as you are moving [the product] from one bonded facility to another bonded facility. That's why we partnered with a bonded facility outside of Peninsula Township to move the product to our bonded facility. I am happy to answer any questions.

Cram: could you talk more about what you would achieve with the small winemaker license?

Valdmanis: it's very similar to the distillery license. We purchase the product from another bonded facility. We can label it and serve that as tastings at our tavern; I think that's what we have to call it within Peninsula Township. It's all produced off site. We label it on site at our property. We already have all the labels. Then we serve it for tasting.

Chown: labeling onsite in of itself is processing, correct?

Valdmanis: correct. The labeling and bottling is processing.

Ahorn: where on the site is this done?

Cram: [shows use area map on PowerPoint]

Valdmanis: because the MLCC does inspect the area, we have a specific area that needs to be bonded, locked, and secured. It has to be in this building [tavern front building]. The storage in the [back building] would be empty bottles, tables, chairs, any accessories.

Cram: so bonded storage is in the front building.

Rudolph: I guess I'm confused, and rightfully so it sounds like. This is the only kind of license you can apply for to do what you want to do, but you have to apply for a processor's license?

Valdmanis: correct. Mammoth Distillery in town, Grand Traverse Distilling, and TC Whisky

all have the same license and same exact processing at their locations in Traverse City. They all make the product off site, ship to their site, and bottle there. It is an archaic rule from the MLCC. At worse we've landed in the middle of this. There is no other license outside of a class C license but that is not what we are trying to go for. We're trying to make our own custom blends.

Rudolph: and I think all the class C licenses are taken out here anyway.

Valdmanis: yes.

Sanger: how are you going to handle beer?

Valdmanis: we won't have any beer. As part of the [front space] market and retail, another family from Old Mission will be renting that space from us. They will be doing coffee, breakfast Fridays, Saturdays, and Sundays. We already have the espresso machine; you're going to love it. They'll be doing breakfast, lunch, quick serve sandwiches. They've already hired the chef who has moved up from Grand Rapids to Traverse City.

Chown: the concern is that our commercial zone does not allow manufacturing or processing. That is the conundrum.

Cram: correct. We want to be very careful because we can't just allow uses that are not within our zoning ordinance. We also need to be careful because we established certain criteria around processing with our recent amendments to the farm processing ordinance in Amendment #201. I would like to discuss this further with our legal counsel with some input from MLCC. I trust what Jordan has said but want to make sure that what would be allowed within our zoning ordinance would be consistent with MLCC licensing.

Wahl: we are hesitant because we can put restrictions on everything, but the liquor license is clearly going to control. We have seen that happen. If you sell [your business] or someone changes their mind, we can't control it at all.

Valdmanis: I asked Andrew [from MLCC] if he would come talk at a township meeting, but MLCC employees won't do that. He did say that we have to abide by the township rules. They inspect us to be sure we are doing all the things for the liquor license, that we're not serving minors, that we're staying within the outdoor area and operating within the hours of operation. Everything else is essentially controlled by the township.

Wahl: that's where we have a little concern. We have this same issue with other entities. We thought we had set rules and they're being destroyed.

Valdmanis: I understand and respect that. From our end, the zoning is different. It's commercial zoning versus winery zoning. I don't feel we should be punished for the lawsuit.

Wahl: I'm not saying I don't trust what you are doing; I'm saying why there's a lot of concern.

Cram: the challenge we have is that you plan to utilize your liquor license in a very specific way, but that liquor license allows you to do other things that are not consistent with our zoning ordinance. We hope that you are going to be very successful and be in business for many years, but if you sell the property and that license goes with it and then they decide to do something different that isn't consistent with our zoning ordinance, that could be a problem. That's why I was concerned when I put all the pieces together.

Rudolph: it's something to check. I know that the class C license goes with the property, but I'm not sure if one of these licenses goes with the entity.

Valdmanis: I think a big topic here is that the township has already signed off and approved our small distillery license. We don't know what you don't know. If we had known we needed to explain in more detail, we would have done that. Again, it was a different planner and a different supervisor. We're probably a quarter of a million dollars into just following the liquor license that has been approved by Peninsula Township.

Cram: the small winemaker license has not been approved. It is pending.

Valdmanis: correct. We have not invested in any of those items. But for us to be able to open in the next two months, knowing that we might not meet the 70 capacity, we might not get the outdoor use for whatever reason. As a business owner, we had to plan for this. I think it is on the township more than on us, not knowing exactly what that was. That was the only license we could apply for and obtain to do what we wanted to do.

Shanafelt: I take offense to that. It's not on us, not understanding what you need. It's on you to make sure we understand it so we can make it work within the zoning and other restrictions we have.

Valdmanis: I was not trying to offend anyone here. Like I said in our summary letters, we applied for that license specifically knowing the zoning of Peninsula Township and that it has to be manufactured offsite. I apologize if you feel that way, because I'm not trying –

Shanafelt: just because you said it's on us. And I have a problem fundamentally with that.

Valdmanis: I apologize. I did not mean for it to come off that way.

Rudolph: I think we are all trying to find a way to make this work for you guys but also to protect the rest of the residents from circumstances that might occur.

Sanger: from my perspective, I'm aware of a distillery up at Chateau Chantal. I recall when Bob Begin obtained a license for that early in 2000. It's a separate building because they were living in the chateau; that's a federal requirement. But that distillery is self-contained. Bob supplied the product, the distilling, and bottling. As a board member, when I heard the word distillery, that is what I had in mind. I had no idea this was a game being played – I'm going to use that word loosely – by tying up with someone who is doing most of the work off site. You told us tonight that you are going to have a still that isn't working. I thought I heard you say you were going to have a still on the property but just for show. Now I hear that you're going to be bringing in bottles and labeling bottles. Before I can support this, I want a full explanation. If MLCC can't come explain it, we need the board to understand it to support it in good conscience.

Valdmanis: absolutely. I understand that. Again, the reason we have done this is that we need to manufacture off site because [manufacturing onsite] does not meet township requirements. We also need to manufacture off site because our septic and our infrastructure cannot handle doing all that on site. That was the reason we applied for this permit.

Sanger: the point you are missing is that if you look up the definition of manufacture, it includes all the elements you're talking about, including putting the cap on the bottle. I'm concerned that I'm not hearing enough information tonight to come to the conclusion that it's really correct.

Shanafelt: it feels definitional. From a logical perspective, bottling and labeling as you're proposing is just bottling and labeling, but it's defined as a manufacturing process. And we can't do that in the commercial zone...currently. We would have to create an exception...

Cram: or update the zoning ordinance.

Shanafelt: sure, I can potentially see a way around it, but at the moment I don't because it's a direct conflict between what you want to do and what is actually permitted.

Valdmanis: and for us this just came up this afternoon. We were completely caught off guard.

Chown: we are in the same boat. We were caught off guard too.

Cram: I did email you to let you know this issue had come up, that we'd received the letter, that the board was asking questions. I started to educate myself, had a four-hour conversation with the MLCC, did research online to try to understand what these things are so that I could come to the table with a better understanding and educate the board. It is my job to help you through this process.

Chown: one of the things we're struggling to articulate is that if we approve this and the small winemaker license goes through, or doesn't go through because the distiller license has already been granted...

Cram: the distiller's license has been conditionally approved by the MLCC. The board approved the tasting room associated with the small distiller's license. It's my understanding that they won't actually receive the license until the MLCC investigator does the final inspection to make sure they have the equipment supporting the use.

Chown: if I'm understanding this correctly, the township has an opportunity to either support the application for the small winemaker license or ask the MLCC to deny it.

Cram: that is correct.

Sanger: because it doesn't meet the ordinance.

Chown: what I'm wondering is – I don't know, Jenn, if you are able to talk about this tonight – if we go ahead with this, are there unintended consequences down the road in our C1 district that we are not aware of right now and what might those be? I don't know if our attorney can speak to that.

Wunsch: we have our attorney here. The questions I have are, do you have any insights into how to manage this problem? Do you have a recommendation on how the board should proceed if we feel that all the other boxes have been checked for this project but there's an issue with the liquor licenses that have been applied for?

Patterson: my knowledge of the issue is also limited to a few hours. My concern is similar to Jenn's with respect to the fact that there actually are two other licenses that would seem most in line with the actual special land use that's defined. As it was noted, those are quota licenses and we understand that there are none available. So this currently is your other two license types that the applicant is using to accomplish the same end result. Our concern, especially in light of the federal court ruling related to other license permits that have been issued to the township, is the potential preemption issue we have with respect to approving a special land use that doesn't allow for manufacturing or processing. Even though it's under the applicant's representation that they will end the scope of their intensity only within what our zoning ordinance says, the extent to which we can control that...I don't really have a good answer for all the unintended consequences, but I think this potentially could have some unintended consequences with respect to undermining what currently are those identified uses we're putting in our commercial district. This commercially zoned parcel is directly adjacent to other land uses. I think there are some

unintended consequences and that the board should be cautious. It should provide some additional time to work with the applicant, the township planner, and the liquor control commission as well to ferret out exactly whether these are the two best license types and if there is some other legal arrangement that can be reached that will allow or ensure that there is no preemption issue down the road related to the limits of processing and manufacturing at the site.

As far as the zoning use itself, what's being proposed in the plans is fine. I think the issue is this letter indicating that for the applicant to actually serve the alcohol that they can serve [introduces] something greater than what's in our zoning ordinance. I agree that we should be careful in approving a use that appears to not definitionally satisfy what is in our zoning ordinance. As is often true with a zoning issue, once we put our heads together, we could probably come back with some other possible solution or direction. Alternatively, you could look at some type of conditional approval. My concern there is that you're literally approving an SUP for purposes of this type of bar/restaurant establishment. Any conditional approval we would give is still going to hold up the ability to actually engage in the operation of sales until we sort this out.

Wahl: how soon can we get back in front of the board on this issue?

Cram: our next regularly scheduled meeting is May 9. We could entertain a special meeting. I am out of town the first week of May. I'm coming back for that board meeting.

Chown: realistically, how quickly can we get together with the MLCC?

Cram: I'm not sure. Chris mentioned there's someone in his office who is kind of the expert with MLCC. Perhaps he has a connection or could assist with that. I can certainly follow up with Andrew and licensing to see if there's someone available. I will work as quickly as I can because I know their building is coming together and they need to open.

Shanafelt: since there's a bunch of unknowns but some we can find out over the next day or so, why don't we consider looking into how quickly we can actually do this? Maybe by the end of the week we'll have an idea? We need to be flexible if we need to have a special meeting to discuss this again.

Wahl: if we adjourn, we don't need to republish, right?

Cram: the purpose of today's meeting is to entertain public comment. We could close the public comment and continue discussion to another date, either the next regularly scheduled town board meeting or a special meeting. This is a crux issue, but the [applicant] also asked about hours of operation, and I would like to hear if the board is comfortable with the other aspects of the request, to increase capacity and the outdoor uses. I'd love to button up the things we feel comfortable with so when we get together again, we can focus on the crux issue.

Ahorn: when we come together, I would like everything in writing. "He said, she said, they said" doesn't work for me. All these pros and cons must be in writing so that we can see and study the facts before we make a decision.

Sanger: I'd like to add that I've been studying MLCC rules for several years given my job at the township. I understand there is a manufacturing level of licensing, a retail level of licensing, and commercial licensing. If we look at the Boathouse and Jolly Pumpkin, these have a class C liquor license. That is retail. Where I'm going with this is that the applicant is going to have to divulge, at least to me, the business plan behind what's going on. Because

the person walking in the front door sipping, whether it's a glass of wine or some spirits, doesn't understand the warehousing and manufacturing. That's the hurdle: warehousing, manufacturing, and retail. I'm thoroughly confused, Jordan, because you have put in place a mixture of manufacturing and retail but what the consumer is going to see is full retail. When we talk about the licensing at the manufacturer's level, we get involved with something called a remote tasting room. What I'm hearing is that he really wants to be a remote tasting room for a distillery in downtown Traverse City. And that's all being done with what I see as a very unclear exposé of what's really behind the permit and what's really behind what we would approve, and that bothers me.

Wunsch: I don't have an issue with it. When I looked into these MLCC issues, our frustration as applied to winery and distillery operators in the A1 district was that there was a disconnect between the agricultural production and the commercial side of the businesses. This business is located in the C1 zone, and it seems appropriate that they would be retailing products that are produced off site. The same things that were concerning to us about the small winemaker and small distiller license being applied to wineries that were purporting to be agricultural businesses are actually beneficial to the township in this case. We were frustrated that slapping a label on a bottle constitutes winemaking in the agricultural district. But for this business, we don't want to see heavy industry or manufacturing occurring within the C1 district. Slapping a label on a bottle that's coming in from somewhere else seems like a customary commercial activity.

Wahl: it's actually less intense in terms of use.

Valdmanis: we are doing our own custom blends. We were out collecting maple syrup from Old Mission to blend in.

Wunsch: it's great that you're doing that, but in the C1 district, it doesn't matter.

Valdmanis: it shouldn't matter, but we're doing it to make our business plan work. We've been fully transparent and have nothing to hide. We're happy to answer any questions. I don't have our business plan with us. I feel bad. I did not mean to offend you or the board.

Shanafelt: it's ok. Isaiah's point is kind of the one I made. We're in this definitional quagmire. I'm sure there's a way around it, but I don't know what it looks like. The issue is that we have to be careful how that is structured to prevent unintended consequences. That is the duty of care that we need to take forward. But I think it's solvable.

Wunsch: if we spend two weeks getting legal opinion on this, is it going to cause huge disruptions for you?

Valdmanis: can we still address the outdoor use and capacity?

Wunsch: yes. What I'm hearing from the board is that we need to get the MLCC issues addressed. Otherwise, the board seems fairly comfortable. We need to open it up for public comment. If you'd like to address any of the comments that come in, Jordan, we can do that. We can have a final board discussion about whether we're okay with approval on everything except the MLCC hang up. If we can hash out any issues that come up, the plan would be to table, get legal opinion to address the very narrow MLCC issue, and then move forward with approval contingent on that, probably at a special meeting within the next couple weeks. Does that sound reasonable to everybody?

Wahl: the MLCC is the only issue I have.

Wunsch: does that seem like a reasonable action to the applicants?

Valdmanis: I think it does. Complete transparency is we have the one license that's been approved that's outlined. We're not ready to open, we need to get our final on construction, all of that before the MLCC even comes in. We're six weeks from completion. But that one approved license that's pending is hanging out there uncomfortably for everybody right now. I think we're going to have this all figured out before we open in six to eight weeks. I'm confident we will work through this.

Cram: are you and Troy around to meet with us the next couple weeks?

Valdmanis: yes. I will email you the times I'm not available.

Sanger: as a board we cannot lose sight of our problem, which is trying to come to grips with production and manufacturing. MLCC can't help us with that. We're going to have to understand what's going on in these two buildings or the one building. We as a board need to come to grips with the question, is there production going on or not?

Wahl: I think Isaiah kind of hit it on the head. Our big issue with the production on the others is that those are agricultural zoned and this is zoned commercial. That's why it's not as big of an issue here. It's not like they're trying to take an agriculture property and say, let's do a distillery and work around it. They already have commercial property.

Sanger: as Jenn has pointed out, it is customary to have an industrial district, and we don't have one. If we are going to infer that our commercial is industrial, we're going to have to do that solidly as a board because it does have consequences.

Rudolph: it has consequences on the other commercial properties.

Shanafelt: again, I would argue it's definitional in scope. There is a way through.

Valdmanis: I would like to offer again that if anybody wants to do a walk around the property with me, we're available.

Rudolph: I don't think that is the problem right now.

Wunsch opened the public hearing on SUP #35, Seven Hills Development.

Mike Flynn, 98 West McKinley: representing CROFT, LLC. CROFT owns five houses close to this proposed development. One of the houses is less than 50 feet away from the property line. The second house is about 200 feet away. Those two houses are zoned C1 so they're part of the commercial district. ICROFT is not opposed to this project whatsoever but does have a side issue to bring up. CROFT has discussed with Jenn what potential uses CROFT has in C1. CROFT feels there is an opportunity to get some of its issues resolved at the same time this special use permit is being issued. It would like to make sure the board is aware of its concerns of its potential uses for its properties in the same general area.

Wunsch closed the public hearing.

Wunsch: besides the lingering ambiguity on the MLCC issue, any other concerns?

Ahorn: looking at the prior conditions we had on May 11, 2021, for approval, number 11 says, "Construct a bypass lane as may be required in the north-bound lane per requirements of the Grand Traverse Road Commission. Additionally, no on-street parking."

Cram: those improvements have been completed by the road commission.

Ahorn: they put in a bypass lane?

Cram: yes. The planning commission also had concerns with parking. I reached out to the Grand Traverse County Road Commission to see if they would install No Parking signs along Seven Hills Road. They said they would not. It would have to be reported by the sheriff's department that there were issues to get these signs.

Rudolph: state police, I think it was.

Cram: yes. So the applicants have agreed to install at their own cost signage that lets their patrons know that when the parking is full, there is no parking on Seven Hills Road.

Achorn: I drove on Seven Hills the other day and missed it.

Cram: the applicants provided information from the road commission that the work has been completed.

Sanger: regarding noise, Amendment #1 contains as a conditional approval “No amplified music that exceeds a volume level greater than normal conversation at the edge of the area designated for patrons.” I want to be sure the findings of fact that have come to us tonight would be accompanied with an action on this. It states, “Noise must comply with the noise ordinance,” but the noise ordinance doesn't discuss any level of volume at the property line. The noise ordinance talks about someone's peace being disturbed. Do both of these requirements play or are we going to take one or the other? We have hanging in Amendment #1, “No amplified music exceeds volume greater than normal conversation at the edge of the area for patrons.” Now we have in this finding of fact that it just must comply with the noise ordinance.

Cram: I'm happy to carry that additional information forward with the next draft. It's an easy fix. The planning commission was concerned that the noise ordinance left something to be desired. That's why it currently says, “Noise ordinance as amended.” I've added that to my to-do list as an ordinance that needs to be updated specifically to look at decibels at the property line so that it can be better enforced. We had hoped to include that condition and update the noise ordinance, but this gives us a level of comfort moving forward until we have time to do that.

Sanger: the other item is, the applicant has supplied some cut sheets for lighting fixtures. A couple of those cut sheets mentioned “Night sky compliant.” Twenty years ago, we worked with a [professor] from NMC about what we call the “Dark Sky Ordinance.” He pointed out that this word is loosely used. Our ordinance talks about full shielding and light pollution on adjacent properties. That is different than what people sometimes regard as “night sky,” which is the light going right up to the stars. I want to clarify, Jordan, so we don't end up with a misunderstanding. The documentation supplied is okay directionally, but we will have to look carefully at the height. We don't see light bulbs in these cut sheets. If the light bulbs are not shielded, then it's a violation of the ordinance.

Cram: have you purchased the lighting yet?

Valdmanis: no. We needed to wait on approval. Lights are \$10,000 to \$12,000 each. In our original approval, Amendment #1, we were not required to have that. We opened up the box going for Amendment #2. We hired an electrical engineer to help provide those plans.

Cram: I did include a standard condition of approval that the lighting plan needs to meet our lighting ordinance, section 7.11. I think it would be helpful if we make sure before you purchase those lights that they are compliant with our ordinance.

Valdmanis: I could refer back to the engineer. I don't know if you've ever tried to read a lighting plan –

Sanger: that's not important; the photometric sketch is of no value because it only shows the intensity on your property. What we need to look at –

Cram: it is valuable, Dave [Sanger].

Sanger: only if you're going to read in the parking lot. What we need to see for compliance to the ordinance is what light is being cast on adjacent properties.

Cram: that is where our zoning ordinance does require that they superimpose their lighting plan and photometric plan. It's hard to read, but it shows the foot candles at the property line. At the property line, I know I want to see a zero or no more than a tenth. They have provided that. We just need to make sure the actual fixtures are shielded.

Valdmanis: it's the bulb now more than anything. For the noise level, we used a decimal level to check different sections of the property. For code enforcement, this is all so new...

Sanger: it's not going to hold up in court anyway. At the Boathouse, the outdoor seating on the deck, no amplification is allowed. We as a township walk before we run in terms of the interface between our commercial and residential. We have to be careful.

Rudolph: regarding hours of operation outdoors. I sat in on the planning commission meeting where they discussed this. Their recommendation was 10:00 p.m. seven days a week. I am inclined to go along with it.

Shanafelt: we had lots of discussion on this. A lot of it was around how to measure noise. It's hard; we have to figure out the noise ordinance. The other thing that was brought up is 10:00 p.m. It seems like a best practice. Other municipalities use 10:00 p.m. as a cut off. I do appreciate the concept of a probationary period. I would propose that instead of starting at 11 o'clock and turning it back, we start at 10 o'clock, and if it's clean for a year, then we consider provisionally moving it to 11:00 p.m. on Fridays and Saturdays and see if we get complaints. I would want to make sure that it's operationally competent before considering changing from 10 o'clock.

Valdmanis: then would we have to come back through this process?

Shanafelt: I am not sure. I would guess it would take an amendment to your SUP.

Cram: I've been looking at how our zoning ordinance should cover minor amendments. I don't want you to be frightened that you'd have to come back through this entire process. I think it could be very focused and within a year we could have something that wouldn't be as onerous as the current process.

Wunsch: you'll [already] have approval. If you look at our current process, my assumption is that you'd have to go through the planning commission and board but you wouldn't be building anything; you'd just be proposing a change in use.

Cram: or even just the board. The planning commission already made its recommendation. We could draft a condition of approval that addresses this probationary period and within a year we could come back before the board to discuss this specific item.

Valdmanis: with the seasonality, we know it's going to be six months on, six months lighter. Would you be open to a nine-month probationary period so we would have a better chance to plan for next year?

Sanger: we're going down a slippery slope. We have 11 wineries right behind you in terms of hours of operation. I can't commit tonight, that's my thought.

Shanafelt: although it is commercial.

Sanger: that doesn't make any difference in terms of contention with the neighbors.

Shanafelt: why I would want to start at 10:00 is that it's a lot easier to give less up front and then give more if all goes well than to give more and then take it back. Maybe we can see how it goes for the summer and check back in September.

Wunsch: I think we're probably as far as we're going to get on this tonight. What is the pleasure of the board?

Cram: we can table to a date in the near future.

Chown moved to table SUP #35, Amendment 2, the Seven Hills Development, to the May 9 regular meeting, or, if sufficient information is provided, to call a special meeting with a second by Shanafelt.

Roll call vote: yes – Achorn, Wahl, Sanger, Rudolph, Shanafelt, Chown, Wunsch Passed unan

Valdmanis: do we still address the outdoor uses and occupancy tonight?

Wunsch: we have to make everything as one decision. We've now had public comment and board comment.

Valdmanis: as the board sits right now, though, you don't see any issues with the outdoor uses of capacity?

Shanafelt: the planning commission spent a lot of time; we all got comfortable with 70. The parking works. As it's defined here, I think it's all reasonable. Sounds like there is some more work with lighting and the MLCC.

Valdmanis: so you don't need anymore information from us for the outdoor usage or capacity? I think we've provided all the information we have for the lighting.

Sanger: you have not given us sufficient information to make a decision. That information has to be the height of the fixtures and the bulb locations and how you are going to shield the bulbs. You've stated in the gazebo you have those hang-down old antique lights. It's not clear how you are going to shield those.

Cram: we can sit down and look over what else we need.

3. Public hearing on Traverse City Triathlon (tabled from March 14, 2023) (Cram)

Cram: Catherine Kathryn is here with Race Day Events. This application was in your packet at the March 14 meeting. The applicant requested that the item be tabled. They did get their public notice notecards out to the public; a copy was included in your packet. They have a complete packet. I included all the liability insurance they have because this is a multifaceted event. They had to list additional insured not only for us but also for the other partners in this race. I've received great feedback from Traverse City on the work they've been doing with this group.

Catherine Kathryn: I don't have anything to add right now but am happy to answer any questions.

Sanger: on your bike route, you'll be crossing Center Road and McKinley. Are you going to have law enforcement present?

Catherine Kathryn: yes. We have three officers stationed at that road and each major intersection.

Sanger: McKinley and Center?

Catherine Kathryn: yes.

Chown: how far north on the peninsula do the runners come?

Catherine Kathryn: I'm not sure where the township begins, but our home base is East Bay Park. The Olympic distance does a 10k, which is six miles. I think the majority of the run is below the Peninsula Township line. The majority of what is in the township is the bike ride.

Chown: the maps were a little hard to read.

Cram: I know; I apologize.

Kathryn-Kathryn: I can send a document with all the links.

Chown: would you, please? I would like to get that on the website.

Catherine Kathryn: I can include the PD map too. It shows where all our volunteers and water stations are located.

Achorn: will our fire department be involved?

Catherine Kathryn: yes. I believe last year they were aware of the event and out and about but not stationed in any particular area.

Achorn: you'll be paying them for their time?

Catherine-Kathryn: Police, we do. EMS, I don't think we do because they're not stationed at any specific spot. I could look into it.

Achorn: Fred?

Fire Chief Fred Gilstorff: they paid in the past.

Achorn: I want to make sure the overtime is covered.

Cram: I am available to assist with meetings and coordination. I'm open to improving the process in the future. It's very nice to meet you in person.

Gilstorff: did all the city permits get approved?

Catherine Kathryn: it is a major work in progress with the rest of the Traverse City area. Regretfully, I am not the person who has been applying for the permits, I came in to my role the last week of February and am getting up to speed. I know those permits are being worked on. We did get unofficial approval this week.

Shanafelt: do we as a township receive any funds from the triathlon itself?

Catherine Kathryn: besides a permit fee, I'm not sure.

Sanger: should be a dollar per event participant.

Cram: per the ordinance.

Wunsch opened the public hearing on the Traverse City Triathlon.

No public comment.

Wunsch closed the public hearing on the Traverse City Triathlon.

Wahl moved to approve the Traverse City Triathlon with a second by Rudolph.

Roll call vote: yes – Wahl, Sanger, Rudolph, Shanafelt, Chown, Wunsch, Achorn **Passed unan**

4. Public hearing and adoption of Peninsula Township Parks Ordinance #57 (tabled from March 28, 2023) (Cram)

Cram: I made two minor changes from the public hearing based on feedback from Susie Shipman. There were no other concerns or changes but I do know that Mike Skurski has talked to Becky [Chown] about a change with regard to groups over 50.

Chown: Mike's concern is one I share. Individuals who want to come and have a memorial service, a graduation party, a birthday party or something to that effect are very different types of events than organizations hold. Individuals versus organizations. Our concern is that the draft ordinance says, "Any group of 50 or more people seeking a permit shall submit a certificate of liability insurance naming the township as an additional insured for at least a million dollars." It strikes us as an unnecessary hoop to jump through. I recommend that we change that second sentence in section four, letter A from "Any group of 50 or more" to "Any organization of 50 or more" to differentiate between individuals

and organizations. Legally, I don't know if that's proper wording, but that's the concern. We have an individual who is seeking to hold a memorial service for her husband at Bowers Harbor Park in the pavilion. She's expecting between 50 and 60 people. I am not comfortable asking her to take out an insurance policy and name the township as an additional insured. That strikes me as being a wrong thing to do and unnecessary. I'm hoping we can differentiate between individuals and organizations.

Patterson: [misheard the question and briefly discussed a non-applicable matter].

Sanger: in my experience at the church, we could get a rider from our church's insurance carrier for a special event per day, maybe \$50, and we could pass that cost on to the organization using the church property for a non-church event.

Chown: I would prefer that.

Wunsch: Chris, do you have an opinion on whether we need to be worried about requiring that individuals or organizations obtain insurance naming the township as an additional insured? Is the township exposed to any significant amount of financial liability? I don't see where an organized group using a park would confer any financial liability to the township. We're generally not exposed to a lot of financial liability if someone slips and falls or has an issue at one of the parks. I'm wondering if it's even necessary to require a million-dollar liability policy for groups.

Patterson: [talked about insurance with the triathlon].

Wunsch: we are looking at the parks ordinance.

Patterson: with respect to the group permits versus individual liability insurance for park events, it's my experience that we did require individual permits and certificates of liability during covid. Requiring liability insurance is really going to be your [call]. From a lawyer's perspective, being conservative is most appropriate. I think it is a de minimis cost to get the policy. In my experience, you can go on the internet and get it. The township would be in a better position, but it's not a necessity. There are other parts of the law that would potentially protect most activities that would occur.

Cram: we could look into what the burden is to obtain this insurance.

Wahl: it's not a lot; I've done it before for a family gathering.

Wunsch: I would propose that we keep this language as is for now. It's a low cost, in my experience, from a financial standpoint. It is an obnoxious administrative burden for someone who wants to sign up to use the pavilion.

Chown: it's terribly obnoxious. I personally would be so irritated I would go elsewhere.

Shanafelt: so?

Chown: these are parks for the people.

Achorn: not necessarily. They are parks that the non-residents use also.

Chown: this is a resident, for the record.

Achorn: we're talking about residents and non-residents and groups from outside the township who want to use the park.

Wahl: if someone did get hurt, realistically, if there is no policy, they have no right to come after us, but if there is an insurance policy, maybe they settle and get some money rather than going to suit. It might benefit us in that case. I see little risk, and I think it takes less than half an hour online. If they're not savvy online, it might be harder.

Sanger: what is the genesis of this particular requirement? If it's 50 or more, do we then

charge a fee for the permit? And if it's under 50, then it's a no charge permit? For 50 or more you can reserve a covering?

Shanafelt: if you are 50 or more, you need a permit. The implication I heard is if you need a permit, then the township is granting the right to use it, and there is an implied liability by doing so.

Cram: under B it says, "Any group or person wanting to reserve a park facility shall apply for and obtain a permit." There is that process on our website. Susan Peihl, our office manager, handles that. It also says, in addition, if you have 50 or more people, you also have to have this insurance policy.

Patterson: in sub-section E, the goal of public health and safety is as you assemble a group of 50, the application also relates to reservation, and the reservation assumes there is some implied special event. All of those pieces are trying to come together to say, additional risk is here with this size of organized gathering, and that's why you're triggering and asking for this liability insurance.

Sanger: I would suggest contacting our insurance carrier. That is what we did at the church, and our insurance carrier is the one that told the church, "This is what you should do to protect your interests." I'd like to see us pass this tonight; we can always come back with a simple amendment like we discussed. But I think if our insurance carrier doesn't care, I don't want to collect the money in this case that you're using as an example.

Wunsch: we'll work with our insurance carrier to figure out a way to handle this.

Shanafelt: so that it's easy administratively.

Wunsch: right, if it goes from being a \$50 permit to a \$60 permit because they have to pay \$10 for the insurance, that'd be preferable than requiring each individual user to go out and obtain an insurance policy.

Chown: Dave, what was the language that you used?

Sanger: it was a one-day special events rider.

Rudolph moved to adopt Parks Ordinance #57 as proposed with second by Shanafelt.

Roll call vote: yes – Sanger, Rudolph, Shanafelt, Chown (with reservations), Wunsch, Achorn, Wahl **Passed unan**

5. Resolution 04-11-2023, Support for Traverse Transportation Coordinating Initiative (Wunsch)

Wunsch: Traverse Transportation Coordinating Initiative [TTCI] is a regional transportation planning entity that Peninsula Township has been absent from for the last couple of years. Rob Carson with Networks Northwest reached out and asked if we would like to participate. This is a formal resolution provided by Networks Northwest to indicate our willingness to engage. We've customized it to Peninsula Township as TTCI Resolution 4-11-2023. It's included in your packet. Does anyone have any questions?

Wahl: I'm in support.

Wunsch moved to adopt [TTCI Resolution 4-11-2023] in support of establishing an inter-municipality committee under Michigan Public Act 200 of 1957 for purposes of transportation planning in the Traverse City study area with a second by Wahl.

Roll call vote: yes – Rudolph, Shanafelt, Chown, Wunsch, Achorn, Wahl, Sanger **Passed unan**

6. Agreement for collection of summer property taxes (Achorn)

Achorn: this is routine. It authorizes us to be paid \$2.50 per parcel. They want the agreement for the tax collection for the 2023 and 2024 tax years. It needs a resolution from the board in order for them to pay us.

Achorn moved to sign the agreement for the collection of summer property taxes for the 2023-2024 tax years to be \$2.50 per parcel with a second by Shanafelt.

Roll call vote: yes – Shanafelt, Chown, Wunsch, Achorn, Wahl, Sanger, Rudolph **Passed unan**

7. Assign township board members to the fire department union negotiations team (Wunsch)

Wunsch: at the budget presentation, Chief Gilstorff indicated the need to get going on union contract negotiations. Unless the board chooses not to have me participate in those negotiations, I'm happy to participate. I think Rudy [Rudolph] indicated some interest. Anybody else? We're looking for a third.

Sanger: I thought Armen [Shanafelt], but I have experience with the fire board. I'll defer to Armen.

Shanafelt: right, I can negotiate fine but I have zero experience with union negotiations. That would be a caveat. Also, I can't commit to a 20-hour-a-week thing.

Chief Gilstorff: initially we'll sit down with a lawyer, and we need to determine who that's going to be. I believe our current firm can handle this. It would not be 20 hours a week. We're looking financially at how much we can offer. Speaking with you, Armen, I know you have good financial sense because you've asked very appropriate questions about our budget. [The negotiations are] obviously a driving component of the budget. It will lay the groundwork for a few years as far as enticing people to come in when we need to hire new people and to keep our own people.

Shanafelt: sure, I'll be happy to do it.

Gilstorff: there can be more than three.

Wunsch: but then it's hard to reach a quorum.

Board discussion

Wunsch: we will stick with our general legal counsel and Rudy, Armen, and I will be the negotiating team. Thank you, Chief.

8. Minor change to Ordinance #53, Amendment #1, Addressing Floodplain Management Provisions of the State Construction Code (Cram)

Cram: the township board held a public hearing on March 14 to review Ordinance #53, Amendment #1. This is an ordinance to affirm an enforcing agency to discharge the responsibility of Peninsula Township to designate regulated flood hazard areas under the provisions of the State Construction Code. Becky [Chown] and I carefully followed all FEMA's instructions. They gave us a template to follow, and we gave them a draft of the ordinance before we brought it to the public hearing. When I followed up to give them the signed ordinance and notice of publication, they discovered an error, which is highlighted in red. The document originally had "Grand Traverse County" first and "Peninsula Township" second. Those terms should be reversed. We have a hard deadline to have this in place by April 19 so that our residents can continue to obtain flood insurance. We wanted to note this change for the record. We will officially update the ordinance.

Wahl moved to accept minor changes to Ordinance #53, Amendment #1 and republish in

the Record-Eagle with a second by Chown.**Motion passed by consensus**

9. Update on Bluff Road and on Kelly Park boat launch Waterways grant application.
(Wunsch)

Wunsch: the Grand Traverse County Road Commission at last month's board meeting voted to decertify Bluff Road. We kind of knew that that was coming. The one positive thing I was able to negotiate was a letter indicating they're supportive of ongoing efforts to find both funding and a permanent fix for Bluff Road. It's disappointing that the road isn't going to be fixed in the immediate future and that it will likely fall on the township and residents to find money. We will keep working with the state of Michigan and continue looking for federal sources of funding. I get the sense we are not getting a lot of staff support from the road commission. I don't know if it's customary for township supervisors to go to county road commission meetings over and over again, but I've been to my fair share since taking this job, mostly related to this issue. My sense is that the road commission board is supportive of finding a solution but staff is not being terribly proactive about putting in for grants or pursuing the funding avenues that would be necessary to get a fix. I think it's a win for us that we were able to pull a letter of support from the board. I don't anticipate that's going to be backstopped by a lot of actual support on the ground, but it will provide us with a useful tool as we go to state and federal funding sources to show that at least at a high conceptual level, there's alignment between the two organizations.

Regarding Kelley Park, we have submitted a grant application for the Kelley Park boat launch through the DNR Waterways grant application program. Becky [Chown] and I have reviewed a couple of concepts. We are concerned about the potential ongoing costs of dredging at the site. We'll be doing some due diligence on whether it will be feasible for the township to maintain a channel dredged out to the depth the DNR requires. We're going to try to work with the DNR on some kind of compromise solution for a somewhat shallower launch. The full DNR specs for require two feet of dredging going way out. The moderate middle ground would be one foot of dredging, which would likely fill in much more slowly and be less costly to maintain. The annual maintenance costs of the two-foot dredging are probably not feasible for the township. If we can come up with something more moderate, there's probably a win there. If not, I think the township would also be amenable to working with the DNR on pursuing a non-motorized launch if that's the best we can get at this time.

Shanafelt: both, right?

Rudolph: ideally we'd get both. There is an amazing amount of pressure from locals.

Wunsch: to have a boat launch, yes. The concept we are pushing for with this grant application includes both a soft launch and motorized. The question is, if we are successful with this application, will the DNR will have any flexibility to reduce the depth requirements for the motorized lunch? What was the annual cost?

Chown: there were discrepancies; they were potentially significant. The DNR is pretty convinced this would be an annual dredging cost. There are lots of residents in the area who know that bay like the backs of their hands, and they say the bottom is stable and wave action is minimal. The old pirate moorings that were put out decades ago and the very old moorings put out in the 1800s when Reverend Dougherty was here are still visible.

That's a pretty good indication that there isn't a lot of wave and sand action. You get it dredged and it may stay dredged. But there are unknowns, and it's those unknowns that could sink [us], financially.

Sanger: when we talked about this about three years ago, about moving the motorized over to Kelley, we were aware of the shallow depth. The public was quite adamant that this was not a big problem because we don't want these triple axle trailers coming in.

Wahl: the DNR has standards; that's the problem. We want to keep it as more fishing.

Wunsch: we have to try to negotiate.

Sanger: we have to be sure it's not a DNR-certified launch.

Wunsch: the DNR is saying that if we don't do it to DNR specs, they don't want to put DNR money into it. We're trying to make a case that this will have broad public benefit, that it will be more than just a community launch. If we're not successful, we'll need to look at a couple of different scenarios. One would be to modify the Waterways proposal to only include the parking and carry down launch. Two would be to look at whether the township has the budget to conduct annual dredging, which I think we do not. Those costs could consume a significant percentage of our annual parks budget. Third would be to see if there are other funding sources available.

Rudolph: probably the time that it is going to be most critical is when we have low water levels. Average water levels or above, you could do a launch there, no problem. I do know that Nevingers had a fuel dock out there at one time and dredged a channel.

Chown: yes, the Army Corps of Engineers issued a permit in 1970.

Rudolph: the evidence is still there.

Chown: it does give reason to think we might be okay with an initial dredging.

Wunsch: but it's a risky gamble.

Wahl: I know there's a lot of support but it's a small population that is going to be using it for a significant cost if it is yearly.

Wunsch: if we can either get the DNR to loosen up the standards or put together some stable source of funding for maintenance, I would feel a lot more comfortable than putting 40% of the parks budget on the hook.

10. Motion to go into closed session (two-thirds roll call vote required) to discuss trial and/or settlement strategy in connection with the Family Orchards v. Peninsula Township and Mari Vineyards v. Peninsula Township and township board lawsuits with the township's attorney pursuant to MCL 15.268(1)(e) and MCL 15.243(1)(g), as an open meeting would have a detrimental financial effect on the litigating or settlement position of the township.

Wunsch: it is customary to offer citizen comment prior to closed session.

9. Citizen Comments:

Monnie Petters, 1425 Neahtawanta Road: I really like the detail in the minutes. Over the years, we've discussed whether the minutes should be really short and just include the motions and who voted and that sort of thing. I was gone for much of March, and coming back and being able to read the minutes rather than listening to the tapes was nice. I like detailed minutes. So thank you.

T. J. Andrews, Grand Traverse County Commissioner District 7: regarding the Bluff Road issue, I echo your supervisor's comment that it seems there's a disconnect between the staff's approach and the road commission board's position. It came out shortly ahead of

the decertification meeting that the one grant application the road commission has applied for was a \$5.4 million grant to relocate Bluff Road through Mallard Road. The one and only grant that is still being pursued as of mid March by the road commission is one that's dead on arrival. I was met with skepticism that that was in fact the case and accused of spreading inaccuracies, but that's plain language straight in the language application that I received from the road commission to EGLE for a grant. I'm just highlighting this as a cause for concern. I understand there's opportunity for the board to continue to support finding resources for a fix. I hope they do not include relocating the road through Mallard going forward.

Today the county board of commissioners approved the county's equalization report. It's a fascinating document for those who enjoy deep dives into data, parcels, land use growth, the difference in numbers of parcels that are agricultural versus commercial, industrial, and residential across the whole county on a township by township basis. It shows how much unprecedented growth is going on. It's a lagging indicator, a couple of years behind; the process takes a while. Even with inflation, we're still at almost 10% growth. That's substantial, and it has some consequences from a policy perspective. I recommend that document for some perspective on where this township lines up with some of the other townships in the county.

A hot topic at the county board of commissioners has been our engagement with appointed board members, people we appoint to sit on boards in the community. It's been a subject of some give and take but I would like to report that our board came together as a unified board, something we don't often do, regarding our engagement with the Pavilions board appointees. The Pavilions is a county-owned facility. It turns out that there's been not enough transparency around incidents at the Pavilions that were concerning to us. We came together to shed some light on that and adopt some measures that should improve transparency around what used to be a four- or five-star facility and has become a two-star facility. That was both a negative and a positive effect, that the board was unified in our perspective and our requests to the Pavilions appointees. I personally, however, was not appointed to any boards by our chair, so instead I signed up to be on some Michigan Association of County boards. I sit on the Environmental Committee and also the Agriculture and Tourism Committee. Given the importance of agriculture in this township, that's a natural. I am interested to hear what they are talking about and to take your feedback to them. I am a receptive vessel for information if there's anything you would like to see at the state level for policies that support local governments and counties. I'm always happy to talk to anybody at any time. Thank you.

10. Board Comments:

Chown: I wish [Deputy France], our CPO, was still here. He was planning to speak in public comment. He has been receiving many complaints about the dead deer being found all over the peninsula. I'm also receiving a lot of complaints about the dead deer from residents who up until a couple of weeks ago were used to successfully contacting the road commission to come out and remove them. That is no longer happening. I've been doing some digging, and today I was able to get in contact with Lieutenant Joe Molnar with the DNR. He is in charge of all of the conservation officers in 11 counties in northern Michigan, including Grand Traverse County. He let me know there has been a problem

between the DNR and the road commission. I'm awfully glad T J Andrews is here tonight. I would like to ask T J as our county commissioner to work with Nate Alger, our county administrator, to convene a meeting. We need to get the DNR and the road commission and the appropriate township officials throughout Grand Traverse County in the same room because there are inaccuracies, deliberate inaccuracies, I suspect. What I do know is that the DNR has been receiving a lot of reports that deer are being poached thanks to piles of carcasses being found on state land. The DNR investigated this and discovered that those deer were not poached; they were hit by cars. Somebody picked them up and dumped them on state land. Well, there are disease issues. People out hiking are worried about the dead deer everywhere. Mr. Molnar told me he no longer wishes to assign his conservation officers to go investigate claims and problems with poaching on state land. He went to the road commission and said that he was very careful with his language; he didn't want to accuse them. The language was, "If you are picking up roadkilled deer and dumping them on state land, stop. It's illegal. It's causing problems. Don't do this anymore." As I understand it, the road commission interpreted that to mean they have a mandate from the DNR to no longer pick up dead deer in the road right of way and remove them. And, further, that if they do take the dead deer, they must have a permit, and if they if they violate this requirement, it's a \$10,000 fee per deer. I encourage anyone who's interested to watch last night's meeting at East Bay Township when Brad Kluczynski, the road commission manager, discussed this issue at length and convinced the East Bay Township board that the DNR is at fault and has pulled the rug out from under the road commission so that they can no longer remove the deer from the road right of way. According to Lieutenant Molnar, that is absolutely not true. He confirmed that the road commission may take any dead deer that are in the road right of way, but they have to dispose of them properly. They may not dump them on state land. They can dig a pit on county land and bury them, they can work with some sort of a trash collector. It's apparent that what the DNR is saying to the road commission is being misinterpreted. There have been some difficulties in communicating. I would like to get everybody in the same room because here in Peninsula Township, we have a problem with dead deer in our road right of way. I don't think we're going to have satisfaction until we get everybody in the same room. I asked Lieutenant Molnar, who oversees 11 counties, if he is having this issue anywhere else. The answer was no. Only in Grand Traverse County and only with the Grand Traverse County Road Commission.

T J Andrews: I was at a road commission orientation and they specifically told us what you said was told at East Bay last night.

Wunsch: I forgot to mention one thing about the Bluff Road issue that may be relevant to you as well, T J. Our fire chief met with [the road commission] Monday and was informed that the remaining part of Bluff Road is not safe to drive emergency vehicles on. The roadway has degraded to the point that if there were a medical or fire emergency along the closed section, the township fire department would be in a walk-in situation.

Chief Gilstorff: they told me that due to their environmental study, they deemed the road to be unsafe for vehicular traffic. That tells me I'm not putting my 50,000-pound trucks on that road, potentially jeopardizing my people or equipment. My concern is the potential for fire and EMS issues and for people who don't pay attention to the barriers to climb

over the cliff and fall down into sinkholes. There was a gate put at the south end of the blockage of the snow fence lining of the shoulder. I was not told of that. Mallard Road people have a key to this gate. It says "Fire lane; do not block." But the department was never given it; I didn't even know it was there. But when they tell me an environmental study [questions] the stability of that road, I can't jeopardize my people. We'll figure out something else; we'll still protect what we have to protect, but it's going to delay us in providing service. I've stressed this numerous times in letters for you to take to the road commission. I'm not convinced the east shoulder on the north side is going to hold up a lot longer. It's going to continue to be a problem.

Shanafelt moved to go into closed session (two-thirds roll call vote required) to discuss trial and/or settlement strategy in connection with the Family Orchards v. Peninsula Township and Mari Vineyards v. Peninsula Township and township board lawsuits with the township's attorney pursuant to MCL 15.268(1)(e) and MCL 15.243(1)(g), as an open meeting would have a detrimental financial effect on the litigating or settlement position of the township with a second by Sanger.

Roll call vote: yes – Wunsch, Achorn, Wahl, Sanger, Rudolph, Shanafelt, Chown **Passed unan**

Sanger moved to leave closed session pursuant to MCL 15.268(1)(e) and MCL 15.243(1)(g) and resume the open meeting with a second by Shanafelt at 10:30 p.m.

Roll call vote: yes – Wunsch, Sanger, Rudolph, Shanafelt, Chown **Passed unan**

11. Adjournment

**Shanafelt moved to adjourn with a second by Sanger. Motion approved by consensus
Adjourned at 10:30 p.m.**