



# PENINSULA TOWNSHIP

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MI 49686

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## Township Board Regular Meeting

May 9, 2023, 7:00 p.m.

Township Hall

Minutes

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

2. **Pledge**

3. **Roll Call**

Present: Wunsch, Achorn, Sanger, Rudolph, Chown

Absent: Wahl, Shanafelt

4. **Citizen Comments**

**Ken Pratt, 12155 Bluff Road:** I am a native of Traverse City, having been born here more than seven decades ago. I am a resident of Old Mission Peninsula and the third-generation owner and occupant of the house my grandmother built at 12155 Bluff Road. I have three grown children and three grandchildren plus numerous friends and other relatives who enjoy visiting me throughout the year. However, it is neither practical nor possible to accommodate them within the one-bedroom house my grandmother built. My property includes 1.77 acres of land and has 250 feet of frontage along Bluff Road. It is zoned R-1B, Single and Two-Family. My proposed building plan includes expanding the existing garage and adding a carriage house space above the garage to accommodate guests. The building plan meets all existing building requirements. It exceeds the minimum setback requirements on all sides. The proposed height is below the two and a half story height restriction of 35 feet. The square footage to acreage ratio is well below the allowable limit of 15 percent. I have ample acreage to accommodate the required septic field. My proposed land use application is no different than others that have previously been approved within the township. There is precedent for approval of this sort of request. Some may suggest that approving this type of project will open the door to short-term rentals. The fact of the matter is that I have no intention of engaging in any such activity, and I am willing to sign an affidavit to that effect. To deny my application based on short-term rental concerns would be equivalent to telling me that I may not own a Corvette because someday I might go speeding down Center Road at 100 miles an hour. Another possible objection to my proposal relates to the undefined concept of ADUs [accessory dwelling units], which at this time is not addressed in any of the township regulations or restrictions. This is in reference to agenda item number six to occur this evening. In order for property owners to fully enjoy parcels zoned as R-1B, Single and Two-Family, I fully support the proposal to incorporate accessory dwelling units wording into the township zoning ordinance. I look forward to working with you on this project while at

the same time protecting and preserving the unique nature of our township.

**Brit Eaton, 1465 Neahtawanta Road:** the citizens' committee and others put a great deal of work into the new ordinances. Jenn [Cram], your work is impeccable. Your intuitiveness, professionalism, and what you have brought to the community as it is embodied in the roadside stand ordinance, now called farm [stand], is excellent.

**David Taft, 952 Neahtawanta Road:** great job on the minutes; they are very detailed and clear. I want to compliment the board on its cautious position, as noted in the minutes, about processing, manufacturing, and retail sales. You're caught between the Michigan Liquor Control Commission and zoning. I laud you for taking a very cautious view with all that's gone on in this township in the last couple of years.

I want to comment on noise and the Seven Hills Development. I have an old adage: "What gets measured gets done." The opposite of that is also true: what doesn't get measured doesn't get done. One of the problems with measuring noise is that you try to measure it when the violations occur, and that's very hard to do when it's evening and people are having fun at a restaurant and someone comes in with the decimator and tries to measure. I would take what you've already done and say there shouldn't be any amplified music outside. [In the amendment,] you are allowing a 122 percent increase, going from 32 to 70. That's great, but you don't have to give them amplified music outside. I live way over [in Neahtawanta,] and we hear music from the winery there. On Seven Hills Road, you have a lot of people living right across the street. I think the easiest solution is to not allow amplified sound outside the building.

**Nancy Heller, 3091 Blue Water Road:** this references the invoice list. There are two full pages and two partial pages of legal fees. I understand the need to have legal counsel, but as a resident, these are just bills. How do we know what's involved? Did the township win, lose, draw; is it ongoing? I wish there could be better communication on these bills; a summary would be great. I think it would help if residents knew what these bills were for.

## 5. Approve Agenda

**Sanger moved to add business item 9 addressing three bills introduced in the Michigan House with a second by Chown.**

**Motion approved by consensus**

**Rudolph moved to approve the agenda as amended with a second by Chown.** **Motion approved by consensus**

## 6. Conflict of Interest:

**Chown asked to be recused from business item 5.**

## 7. Consent Agenda

1. Invoices (recommend approval)
2. Reports
  - A. Cash summary
  - B. Peninsula Township Fire Department
  - C. Peninsula Community Library
  - D. Ordinance enforcement officer
3. Minutes from April 11, 2023, Township Board Regular Meeting and Joint Township Board and Planning Commission Special Meeting
4. Road name request
5. Informational Flyer on Open House at Mission Log Church

6. New rate at Devils Dive Compactor Station effective June 1, 2023
7. Request to deem unused township office server as surplus
8. Request for approval of quote to replace garage doors and openers at fire station 2 and to replace the openers at fire station 1
9. Vineyard Ridge Phase II project turnover documents
10. Correspondence
  - A. Greg Fisher
  - B. James Savage
  - C. James Raphael
  - D. Mike Skurski

**Achorn:** I would like to move the request to deem the unused township server as surplus to business item 7. Included in the [packet material] is a buyer. According to the policy, it should be advertised so that it is available to everybody.

Two comments on invoices. EagleView Pictometry Imagery was on last month's list. It's the flyover so you can see all properties on the peninsula from the sky. The reason it was moved to this month is that we combined the planning and zoning offices, so we had to adjust the allocated cost. This invoice is now divided between the fire department, PDR, planning and zoning, and assessing. This was a cost adjustment.

The second comment is that we have a temporary hold on the Affinity bill for services. I need to clarify some of the listed items. There was also a question from Armen [Shanafelt] regarding the fire department door bid selection. I'll let Fred [Gilstorff] speak to that.

**Wunsch:** if there is going to be extended comment, let's move the bid to business item 1.

**Wunsch moved to approve the agenda as amended with the township server declared as surplus as business item 9 and the update from Chief Gilstorff on the bid to business item 1 with a second by Chown.**

**Motion**

**approved by consensus**

## 8. Business

1. Request for approval of quote to replace garage doors and openers at fire station 2 and to replace the openers at fire station 1

**Wunsch:** the question was whether we had a prior working relationship with the vendor.

**Chief Gilstorff:** in the letter I presented to the board, we originally budgeted \$49,000. The quotes came in from the three different companies. I called each of them to make sure I was getting apples to apples. I made sure they had all the safety mechanisms. Then I evaluated the doors based on their insulation values. The one I'm recommending had the highest R value. It's also roughly \$7,000 under the the highest bid and ended up being the lowest bid. I'm comfortable that I did my due diligence. I had a couple of my guys evaluate my work to make sure they came to the same conclusion. I ask that we approve this bid.

**Rudolph:** have you had experience with them in the past?

**Chief Gilstorff:** they're under newer ownership but they've been around a while. We've had them out to do repairs. When we have garage door issues, we call around because they are all very busy. We try to get whoever we can out there. Our equipment in station one and station two is very old. I think the original door openers are in station two, and that was built in 1977. I am comfortable this is the proper company to go with.

**Rudolph:** I've had bad experiences with garage door companies here and just wondered if

anyone had experience with them.

**Chief Gilstorff:** not besides the potential repair here or there. We went through the reviews. I'm comfortable with them. I believe they'll take care of us properly.

**Chown:** I've not known Fred to ever cavalierly spend money.

**Chown moved to approve the bid with a second by Achorn.**

**Roll call vote:** yes – Achorn, Sanger, Rudolph, Chown, Wunsch.

**Passed unan**

2. Update from Peninsula Township Parks Committee (Zebell and Skurski)

**Skurski:** drove by [Bowers Harbor] on the way here. There were about 30 cars in the parking lot watching a Little League baseball game. It's great to see the field in use. I met Chief Gilstorff at the [former] Haserot boat launch, and we are going to meet again with a maintenance guy. That launch [is no longer usable and] has been taken off the Coast Guard map, which means there will be no red or green buoys out there. As this is the water source at the north end, we need to have it open 24 hours a days. We are going to probably have to pull sand from the cement platform so the fire trucks don't get stuck. We'll also need some barriers to entry and signage to make sure people know to keep that area open. We will be working on that in the next couple of weeks.

**Zebell:** we were awarded a DTE tree grant for both Bower Harbors Park and Archie Park. Fourteen trees will be planted at Bowers Harbor and quite a number of shrubs and trees at Archie. Mary Beth Milliken has done a fabulous job of sourcing both natives and non-natives to really beautify that park. We need volunteers to help water trees. If you wouldn't mind maybe three weeks out of the summer helping to fill water bags twice a week, please email me and I will send you a sign-up sheet.

Probably the thing we are most excited about is the new playground structure at Bowers Harbor Park. The structure is in place. It looks beautiful, but the concrete needs to cure and the wood chips can't be delivered until next week. We'll be looking for volunteers to help spread those chips. Rob Manigold will bring his tractor. We also need folks to bring wheelbarrows and rakes and shovels on Saturday morning, May 20, from 10:30 a.m. –2:30. We are tentatively scheduling a celebration at Bowers Harbor Park for July 22. This is an opportunity for the community to get together and celebrate this wonderful addition. We'd like to make it an old-fashioned celebration. Our wonderful fire chief said the fire department would get a truck down there for the kids. We'd also like this event to serve as a kickoff fundraiser to improve our south playground. We want to gather ideas from the kids about what they'd like to see. We'd like to have some old-fashioned games, and someone came up with a brilliant idea that could be a real moneymaker: a dunk tank. We thought if certain folks would volunteer, we might be able to raise a pretty penny.

I want to thank you. What I love about a playground is that it's a gathering place for community, where families and kids get together and where friendships and connections to the peninsula and our park system are made.

3. Adoption of Zoning Ordinance Amendment #203, Farm Stands (Cram)

**Cram:** at the April 11 meeting, the township board and planning commission held a joint public hearing. The planning commission recommended that the town board approve Amendment #203, Farm Stands, with changes recommended by commissioner Randy Hall. I included a redline copy in your packet. I also made a change: to delete former letter G, which says, "No area may be formally designated for the onsite consumption of items

purchased at the farm stand.” Now that I better understand liquor commission requirements and permits, I don't think we need to be concerned about a farm stand becoming a tasting room. This use would have to be approved by the board. I do think this ordinance provides a wonderful opportunity for visitors to sit and enjoy the farm, and I believe it's ready for adoption. It goes a long way toward helping our zoning ordinance be consistent with both the Right to Farm Act and the State of Michigan Farm Market GAAMPS. I'm excited that this amendment further supports agriculture on the peninsula. **Chown:** it incorporates many of the things this community treasures, and it helps our farmers.

**Cram:** I'm also excited to work on other amendments, such as the processing kitchens. I look forward to shifting back to these agricultural segments of the zoning ordinance.

**Rudolph moved to approve Zoning Ordinance Amendment #203 with a second by Sanger.**

**Roll call vote:** yes - Sanger, Rudolph, Chown, Wunsch, Achorn

**Passed unan**

**Cram:** I will get this published in the Record-Eagle as soon as possible.

4. Special Use Permit #35, Amendment 2, Seven Hills Development, tabled from April 11, 2023, with the potential action to occur (Cram)

**Cram:** a public hearing was held on April 11 for Special Use Permit #35, Amendment #2, for the Seven Hills Development. The SUP requested that the property be allowed to increase capacity from 30 to 70 and allow outdoor uses within a defined area. It also asked to utilize amplified sound for those outdoor uses. The board agreed with the planning commission's recommendation to limit the hours of operation based on the concerns about mitigating noise. We had a discussion about those uses being appropriate in the C1 zone district. We want to make sure this approval is consistent with the currently approved liquor license for a small distillery. We have been working with our legal counsel on that. Since the April 11 meeting, I have provided legal counsel with all the pertinent background information, particularly related to the board approving the distillery and tasting room. We've had conversations with staff, officers, and legal counsel since then. Chris Patterson, who is with us this evening, is working to draft a resolution to encapsulate the history of these approvals so that we are in line with the Michigan Zoning Enabling Act, our zoning ordinance, and the MLCC. I think Armen [Shanafelt] described it well at the April 11 meeting: there are a lot of definitional differences between MLCC and our zoning ordinance. On Chris's team are two attorneys who specialize with MLCC licensing. Chris will also assist me to better refine the findings of fact and conditions to memorialize this and make sure we are consistent with the Michigan Zoning Enabling Act and our zoning ordinance. We tried very hard to get all this done as quickly as possible because we understand that the applicants would like to move forward. Unfortunately, we were not able to accomplish this by the time the packet was put together. We believe we can have it ready if the board would entertain a special meeting on May 23, two weeks from now. Chris, please chime in, but we recommend that the board make a motion to table this item for further discussion at a special meeting on May 23 at 7:00 p.m.

**Patterson:** procedurally, you have routinely granted special use permits based on resolution. We're trying to integrate the information into a resolution with background research. We are contacting MLCC to see how they are going to treat the distillers' license

approval and how that will interact with our zoning. It's a policy decision where the SUP is based on standards and the ordinance. Whether you decide to approve it or not, we want to make sure there's a proper document you can review. We were not able to put all those pieces together by this evening. Two weeks will give us enough time.

**Chown:** Jenn, would you address David Taft's concern about amplified music?

**Cram:** sure. First, I want to add that we have kept the applicants aware of our progress and what's happening.

With regard to Mr. Taft's comments, it's a valid concern. We know the topography of the peninsula provides amplification on its own. Sound travels. We have discussed this a lot with regard to our process for updating our farm processing ordinance and what is appropriate for properties that are zoned A-1 agriculture, i.e., allowing these special uses that are essentially industrial and commercial in nature. We want those value-added opportunities for our agricultural operators to be successful. That entails having a tasting room. When we worked through the farm processing ordinance amendments, everybody was comfortable with that. Entertainment, activities, and things could happen entirely indoors. We would allow for a limited outdoor seating area. All of these things were based on that use occurring on land that is zoned A-1. Most people when they buy property understand that certain uses will happen on A-1-zoned properties. Likewise, we have to assume that if you're purchasing land that is adjacent to the C-1 that other uses can happen. With our discussions about where these types of uses should take place, we agreed that uses that are commercial in nature should happen in our C-1 zone district. C-1 is small and this property is surrounded by A-1 or other residential neighbors, so even though that's where these uses should take place, we still have to be very careful about our conditions of approval. They help mitigate negative impacts. That is why we had detailed discussions with the planning commission and the township board about the hours of operation. The recommendation that came to the board considered living next to commercial activities. With our conditions of approval, we tried to be reasonable to mitigate negative impacts, and both the planning commission and township board agreed that the 10:00 p.m. timeframe, seven days a week, was reasonable on Fridays and Saturdays because the property is zoned C-1.

**Rudolph:** 10:00 p.m. for outdoor activities, correct?

**Cram:** correct. Indoor is not limited.

**Chown:** in terms of the amplification of music outdoors, what do we have in our zoning ordinance in terms of limits?

**Cram:** we do have a noise ordinance, and there is a proposed condition of approval that requires the applicant to abide by the noise ordinance. Our existing noise ordinance could use some updating to allow for better enforcement; it is on the list of things to do. Dave [Sanger] also mentioned at the April 11 meeting that under SUP #35, Amendment #1, there was a very specific condition of approval about not being able to hear a human voice at the property line. He recommended that condition be brought back into the findings of fact and conditions. That is on our to-do list. The applicant will be required to abide by the noise ordinance as amended as well as that specific condition of approval. Susie Shipman, the chair of the planning commission, prior to making her decision, brought a speaker and put it in the area where the outdoor uses are proposed. She cranked it up and then went

to the property line. [She was unable to hear any noise.] The benefit of this property, although it is small and adjacent to A1-zoned properties, is that it is surrounded by mature vegetation. That will be helpful. They are also planting additional vegetation.

**Chown:** it's helpful to hear this.

**Wunsch:** the vegetation on the adjacent property to the north is a condition of approval of the SUP on that property.

**Chown:** it will absorb a lot of the sound.

**Sanger:** it has been suggested that we do a decibel level testing. We don't want anyone who doesn't want the noise, let's call it noise, to hear it. On the other hand, we have a certain amount of activity that is permitted in a commercial zone. I just want to remind the board that my knowledge of the noise ordinance is that it uses the words "disturbing the peace." That means something different to everyone. We do not have hours of operation in terms of disturbing the peace except for construction noise. We changed the ordinance two years ago to limit construction noise from 7:00 a.m. to 7:00 p.m., shorter on the weekends. But the mechanism on the noise ordinance allows one who is disturbed to complain, either to call law enforcement through central dispatch or call our office and ask for an investigation. We don't like to hear complaints, yet they are helpful because they tell us if we have a problem. Even though it may sound like a poor idea to amplify sound outside, we're dealing with a balancing act. I feel that the guardrail is that anyone whose peace is disturbed can file a complaint to be looked into by the enforcement officer. Then we have an opportunity to evaluate and we can make changes if appropriate and needed.

**Patterson:** it's relevant to your current litigation as well as your noise ordinance provision. With respect to the winery litigation that is pending in the Western District, the court has permitted the township to refile pleadings related to preemption. I raise this because hours of operation is litigated in that case. In the June 2022 order, the judge decided hours of operation might be fine, but for amplified music, his position was that a complete prohibition might be problematic if you already have a license of approval under the MLCC based on add-on permits you could get. I do think taking a position that you would lower or have a standard as to how loud the noise can be is consistent with that approach. That brings me to your noise ordinance. A complaint can be filed by anybody. People get into these ideas of litigating noise ordinances as to whether they are enforceable. There are board of appeals case opinions that suggest the standard is a reasonable person. I think your current ordinance is probably sufficiently defensible and is consistent with the current litigation as pending in the Western District as you are imposing a limitation on the level of noise, which is basically not being able to be heard past the property lines, as opposed to a complete prohibition. The liquor control code and current litigation is top of mind to those who are developing and presenting documents to this board.

**Rudolph:** I'm curious if the license that is currently being granted to the Seven Hills development is granted to them specifically or does it go with the business or property in case the owners sell?

**Patterson:** as a general practice, the actual liquor license is issued to the licensee. There is a listed licensee on the permit; it's the individual at the licensed premises who is entitled to operate, the same as Resort 550 permits and Class C licenses. You'll see those sold and transferred within the jurisdiction. For Class C, the township is at the max, but they are

available on the market. Class C licenses, Resort 550 licenses, those are sold because there are limitations on getting them issued. Small winemaker, distiller, brew pub; those licenses you don't see being sold because they're not subject to a quota limitation, meaning there's no limitation on the number you could have in the township.

**Wunsch:** we're going to recommend tabling until our attorneys have more opportunity to weigh in.

**Chown:** I appreciated the letter from Jay Milliken that is in our packet. It explained the plan and what they want to do. Great detail; thank you for writing it.

**Sanger:** are we able to tailor to a date specific based on the work that needs to be done?

**Patterson:** Jenn mentioned May 23. I'm comfortable with that date.

**Wunsch:** Jordan [Valdmanis], do you have a comment?

**Valdmanis:** Jenn has done a great job communicating about the application and meeting about the lighting. Appreciate you working through it. We are ready to open.

**Sanger moved to table SUP #35, Amendment #2, until May 23 with a second by Rudolph.**

**Motion passed by consensus**

5. Consideration of updated fees for planning, zoning, and land divisions (Cram)

**Cram:** in your packet is a memo that outlines the proposed increases overall. Both Sally [Murray, assessor] and I have been looking at the amount of time we're spending to process applications and move them through the public noticing requirements. Our fees have not been updated since 2021. Generally speaking, we're proposing a 20 percent increase across the board for land use permits, special use permits, things like that. Based on engineering review fees and/or attorney review fees, we have proposed a greater increase. That relates to stormwater permits and private roads as well as the land division review fees. We believe this will help us cover our cost of doing business. They're still reasonable fees when you look at what other townships are charging. I included the existing rates as of 2021 as well as the proposed rates. I added a few new things such as "change of use." For instance, when a bed and breakfast is approved via special use permit, there isn't any new construction. This would allow us to confirm that change of use has been approved and it allows staff to go and inspect to make sure the numbers of bedrooms are consistent, for example. That's one example of a "change of use." The Seven Hills project is another example. They are changing from an occupancy of 32 to 70 and adding outdoor uses if and when the SUP is approved. Then they would come in and get a land use permit before moving forward. Our zoning ordinance specifically says that, particularly for special use permits, you need to take action within a year. For those projects that don't necessarily include construction, this allows us to memorialize those approvals and make sure uses are consistent.

**Chown:** where is change of use? I don't see it.

**Cram:** under land use permit.

**Chown:** found it; thank you.

**Sanger:** land use permits are issued for 12 months. When one comes in for renewal, is there an additional fee at that time to renew the permit?

**Cram:** there has not been a fee. But I believe that perhaps there should be. Let me look.

**Sanger:** there's been a question of policy. I think there should be a fee to renew it because it can take more than 12 months. Some of these have been going on for three or four



years. It gives staff an opportunity to review what's going on and quite often involves substantial changes.

**Cram:** do you think it would be appropriate at half the original land use permit fee?

**Wunsch:** what does your review time look like? Is it half the workload?

**Cram:** depends. We have issued two renewals since I've been in this role. They were very straightforward, confirming that things were still consistent. But there could be some that require more review. I feel this is a good starting place. If we see we're spending more time on it, we could come back.

**Chown:** let's revisit this in a year.

**Sanger:** I have seen where someone will come to our office to get a land use permit, then go to the construction code office, then go back to the construction code office with change one, change two, change three. They never come back to the township again. It is possible to pretty much start from scratch because of the changes that the construction code office has approved in the building.

**Chown:** is there a way to incorporate language that will allow Jenn, if she realizes it's a deep dive –

**Cram:** there is in the additional fees an asterisk that says, "Any extra costs incurred by the township for any fees associated with or in addition to the permit fee, land division fee, zoning board of appeals, planning department, or planning commission will be billed to the applicant." This is consistent with ordinance Amendment #196 that allows us to bill those fees back. If it did exceed that, we would have the ability to bill those additional review fees back to them.

The other thing that increased is the large event permit fee and the fee paid per participant. That increased from a \$500 permit fee to \$1,000. Then \$1 for registered participants to \$5 to account for restricting roads and parks and things like that.

**Wunsch:** did you research what other municipalities charge for participant fees?

**Cram:** I did not. Every community handles large events differently.

**Sanger:** those communities that are more involved with business and commercial have an incentive to encourage people to come who might shop and so forth. We don't have that.

**Cram:** I based that proposal on what I heard at the recent public hearing for large events and what the event sponsors are charging for application fees. When you're charging \$75-\$125 per participant, \$5 coming to us to help support our parks and public programs seems small. The event sponsors will still be able to make these events successful.

**Chief Gilstorff:** I get involved with some of it. I don't see a fee structure for my component. A lot of times I have to review before they even submit actual plans. Then when it comes back, I review it again. Depending on the project, it can take a couple of hours. If we're going to start encompassing all this stuff and try to recoup costs for our time, then we need to take into account all the departments that are working through these processes.

**Cram:** I bumped it up specifically to cover your fees because I felt you were spending more time reviewing things than I was. Do you think we need more to cover your time?

**Chief Gilstorff:** I have not seen the numbers. I just know I spend a great deal of time going back and forth with the proposal to make sure it meets fire code and so on. We've already talked about the fire ordinance. We need to bump those fees up somewhere down the road. Just make sure we're included so our costs can be recuperated as well.

**Cram:** on my to-do list is an update to the large event ordinance and perhaps a special event ordinance. I think we could add specific fees for fire or police in addition to the permit fees.

**Chief Gilstorff:** I have a fee schedule for that and a cost recovery schedule for employees based off their rates for all the big events like the Bayshore Marathon. But if we want to put something into the actual document, I think that would probably be wise.

**Cram:** the more information we can give applicants upfront so they understand the process and all the things they need to do to get from point A to point B would be helpful.

**Achorn:** I think it equally applies to SUPs, land use permits, and so on. How are we going to keep track of the time? Will there be sort of a running time list that goes with the permit?

**Cram:** yes. That goes back to the escrow. When an SUP comes in, we establish that escrow upfront. We keep track in an Excel spreadsheet of how much time engineering spent. Fred [Gilstorff] has helped me with past SUPs to track how much time he spent reviewing it so I could deduct that from escrow. All the professional review fees are already being tracked through that escrow for special use permits.

**Achorn:** even your time and other staff time.

**Cram:** to that point, that was where I pulled the bed and breakfast SUP out on its own. That was one that, regardless of the acreage, I could review, write the staff report, do the public notice, in a relatively short timeframe. Other SUPs were based on acreage, not necessarily complexity. That's why I adjusted the special use permit fees accordingly. This is a start. I'm trying to be responsible with public funds to cover the cost of doing business.

**Chown:** the only amendment is the suggestion to add the renewal of a land use permit. It would then incur half the fee?

**Cram:** yes. It's an easy fix.

**Chown moved to approve updated fees for planning, zoning, and land divisions as amended with a second by Rudolph.**

**Roll call vote:** yes – Rudolph, Chown, Wunsch, Achorn, Sanger.

**Passed unan**

6. Responses to PDR administration RFP

**Wunsch moved to recuse Chown while considering the responses to the PDR administration RFP with a second by Rudolph.**

**Motion passed by consensus**

**Cram:** the RFP was for assistance administering the PDR program. The Grand Traverse Regional Land Conservancy chose to break it into two different contracts, one for administration, i.e., help with public education, updating applications, and drafting conservation easements. The other contract was for monitoring. The proposal from Susie Shipman was specifically focused on the monitoring but could add administration if needed. I have a good working relationship with all of them. They're qualified. I don't really have a recommendation as to one over the other. Susie has worked with the land conservancy in the past. Both Susie and Laura [Rigan] are here to answer questions.

**Sanger:** are we going to offer each applicant the opportunity to speak to the board?

**Wunsch:** the board will probably do a Q and A.

**Cram:** I asked them to be available to answer questions.

**Achorn:** the RFP went out with a grand umbrella. Can we divide this up? If we did, how would we negotiate the cost? I think the monitoring could be separate from the total administration.

**Wunsch:** a question to Laura: do you think it would work if we have the conservancy doing administration and Susie doing monitoring?

**Rigan:** it's why we submitted two separate contracts to bid – we see that as two separate services. They fall under different departments at the conservancy. My role is more on the administration side while my colleague would be doing the easement stewardship side. We have a good working relationship with Susie too.

**Wunsch:** we have three separate budget numbers. The \$60,000 administration piece from Laura, \$35,00 plus expenses for Susie, and \$50,000 for the proposal from the conservancy from Mike Okma.

**Ahorn:** this \$50,000 included monitoring also.

**Rigan:** it is for the monitoring. It's easement stewardship so not just monitoring but also assisting with enforcement recommendations and providing some assistance on the procedures and protocols of the easement stewardship side of the program.

**Ahorn:** anytime there's a need for enforcement, would that be moved over to the administration side?

**Cram:** no.

**Wunsch:** the administration side will be pushing the money out the door for the run of PDR that was just approved by millage.

**Cram:** it would function similarly to how it has in the past. We had independent contractors who monitored the 114 conservation easements that we currently hold. They would prepare a report once a year. Then enforcement, per the PDR ordinance, still falls on the township. So whoever has the contract to monitor would monitor and then turn over their reports to us. It would be all of us as a team to bring that forward to the board and deal with the enforcement issues.

One question for the applicants. Having looked at some of the existing conservation easements, the baseline documentation on some of the older easements isn't the best. One of the proposals presents an opportunity to go back and update those older documents. I would like both of you to comment on your comfort level in providing that service. On a daily basis, we have to look at land use permits to see whether or not they are in compliance with the conservation easement, and some of those older baseline documents aren't great. So in addition to the purchasing new properties, we still have to think about maintaining the existing program.

**Rigan:** reviewing baselines is part of our easement stewardship's annual work plan. We do supplementals to the baseline documentation records, which includes upgrading maps, pictures, things like that. This program has been around close to 30 years.

Easements and technology have evolved, so keeping them up to date and using current best practices is something we regularly do.

**Cram:** that was under Mike's proposal for monitoring. Susie, is that something you also have the experience and ability to assist with?

**Shipman:** absolutely. It's the same procedure you see running through all land trusts. I echo that same explanation. Sometimes it's called the "Current conditions report." It's standard procedure, part of a complete stewardship program. Looking back through the entire file for a property is step one in preparing the packet to meet with the landowners.

**Cram:** EagleView [Pictometry] software will be accessible to whoever is awarded the

contract.

**Wunsch:** outside of the annual monitoring period, would both applicants be available to answer questions from the township's planning and zoning office or landowners who are trying to figure out whether certain proposed projects comply with their conservation easements?

**Rigan:** yes, I think we included that in outreach and education. We pride ourselves on creating those relationships, not just showing up at the property once a year for monitoring. To be really proactive on the enforcement side of things and to avoid violations in the future, it's all about creating those relationships.

**Shipman:** yes, I would be available throughout the year as well.

**Sanger:** we've all come off a recent experience with a monitoring dispute earlier this year. We have experience with a couple of violations. I'm comfortable that both applicants have addressed the issues.

**Wunsch:** I propose that we award the administration portion of the contract to the Grand Traverse Regional Land Conservancy.

**Ahorn:** I propose we give Susie the monitoring. I like the division of labor; there are controls and balances. I like the idea of two separate entities handling PDR.

**Sanger:** that is what I thought. Both organizations are very well qualified. I know Susie has background with the township in planning. In terms of the formation, the administration, the gathering of the applicants to review their application, that process is one where you really get to know people. I've found in the monitoring enforcement area, it's sometimes better to be a little more objective. It makes good business sense to separate those duties. It means we have two sets of eyes looking at everything. It also avoids a situation where someone might miss something. The economics favor splitting also.

**Ahorn:** I have an email from Armen [Shanafelt]. He was impressed by Susie's proposal. "The level of detail and care from the example she gave are very impressive. Although I can see the benefits of a one-stop shop using the conservancy for all this, the advantage of multiple parties having to work together seems to lead to a good balance of arm's-length independence. Thus I support accepting Shipman's bid for monitoring."

**Rudolph:** I like the idea of having multiple people looking at these things too. I appreciate what you just said, Dave. This is a good way to split it so you have two eyes looking at each situation.

**Sanger:** as I recall in the conservancy proposal, they're requesting a two-year contract. Susie priced hers annually.

**Wunsch:** Susie, are you conceptually open to the idea of doing a two-year contract? I think my only concern with your proposal is that you are one person and the conservancy is an organization.

**Shipman:** I wanted to give you flexibility. I'm happy to do whatever the board desires.

**Wunsch:** you gave us a one-year proposal at a specific price. Are you amenable to extending that for a second year?

**Shipman:** absolutely.

**Sanger moved to accept the bid from the Grand Traverse Land Conservancy for the annual administration of the program for two years at the price quoted and to accept the proposal from Susie Shipman for the monitoring program for a two-year**

**commitment at the price quoted with a second by Rudolph.**

**Roll call vote:** yes – Achorn, Sanger, Rudolph, Wunsch

**Passed unan**

**Cram:** we do need to formalize this with a contract.

**Rigan:** we have a draft contract; it will need to officially go to our board.

**Wunsch:** because the board is budgeting, it's in our hands to make sure the contracts fit the RFP and iterate through and sign off.

**Cram:** I wanted to know next steps. I also want to thank Laura for the work she's already done with the PDR selection committee, which has been meeting since the end of February. We had a very successful open house on April 24. The application round has opened, so if you know anyone interested in learning more or participating, please go to the website. Applications are available there. We are accepting applications until June 7.

**Wunsch:** what does someone need to do in order to get a foot in the door by June 7? It's a single-page application right?

**Cram:** yes, a simple, straightforward application. We are here to support anyone interested in filling it out.

**Rigan:** just a reminder that if you've already gone through the program and retained building sites, you can sell those back. It's a different application.

**Cram:** the conservation easement template is being updated. We will be getting that to legal counsel for review as well. Lot of great work has happened since the end of February.

**Wunsch moved to bring Chown back to the board with a second by Sanger. Motion passed by consensus**

7. Policy discussion on accessory dwelling units, short-term rentals, and building height (Cram)

**Cram:** since I have been acting as the interim zoning administrator and looking at both planning and zoning issues, some things have come up. We are regularly asked if a space above a garage or within an accessory structure can be finished with conditioned space. These proposed improvements range from simply being conditioned space that's heated and/or cooled to a conditioned space with a bathroom and/or conditioned space with a bathroom and kitchen that can be used as an accessory dwelling.

Our zoning ordinance defines a dwelling as "Any building or structure or part thereof occupied as the home residence or sleeping place of one or more persons either permanently or transiently, regardless of whether cooking facilities exist." With that, if we approve the land use permit that allows someone to finish a space above a garage with a bathroom, someone could sleep there. Technically, we would call it a dwelling.

Land use permits in the past were issued inconsistently around this matter. Some people were issued land use permits that allowed them to finish space with a bathroom and others were not. I personally feel comfortable issuing land use permits if somebody wants to finish space to use as an office or something, and having a bathroom doesn't concern me, but if I follow the very strict definition of a dwelling in the ordinance, someone could sleep there, so it could be considered a dwelling. Our zoning ordinance does not talk about whether or not a second dwelling or an accessory dwelling is allowed on the property, and there has been a different interpretation of some things in our zoning ordinance.

Currently, the R1-B, R1-C, and R1-D zone districts allow for single-family and two-family dwellings. Past zoning administrators have interpreted "two-family dwelling" as meaning

there could be a second dwelling on the property. There's maybe three dozen properties where land use permits have been issued that have a second dwelling on them based on that interpretation. Our zoning ordinance does not define a two-family dwelling. If you Google it and go to the common definition and planning terms, we consider a two-family dwelling to be a duplex. The fact that past zoning administrators have allowed a separate dwelling on a parcel is concerning. We can't go back. But moving forward, I want to make sure the board agrees with the interpretation that a two-family dwelling does not mean you get a second dwelling; it allows a duplex.

From an intensity of use standpoint, this duplex use, the two-family dwelling use, is allowed in the R1-B, R1-C, on the parcels that have smaller minimum lot sizes. The minimum lot size for the R1-A that only allows for one single-family dwelling is one acre whereas the R1-B minimum lot size is 25,000 square feet. You're trying to fit a more intense use on a smaller lot. I think we need to talk about where it would be appropriate for a property to have a duplex, to make sure that you can locate an on-site septic system and so on to support two families living in one building on a property. I'd like to propose that we work on updating the definition of the two-family dwelling and add some standards regarding when it is appropriate for a duplex to be constructed on a property. From a planning perspective, I believe that accessory dwellings are a good thing. Look at how living situations have changed since the pandemic. We see a lot of 20 to 30 year olds who aren't leaving home. We have situations where family and friends want to come and visit. Accessory dwelling units allow for additional space for families and friends. They also allow for, if they are rented long term, a property owner to generate income so that maybe they can make improvements to their property or keep the property in the family. They also provide additional housing options, real estate options, for affordable rental situations. With certain standards around accessory dwelling units, they are a good thing. I would never recommend that ADUs be allowed to be rented short term. Having come from Colorado where there is a severe housing crisis, accessory dwelling units are helping to provide additional housing stock. The short-term rental situation detracts from that opportunity. I have worked in other communities to develop accessory dwelling unit standards. You can look at limiting the size so that they're truly accessory to the primary residence. For instance, they might be limited to 1,200 square feet or 40 percent of the primary residence so that it is truly accessory to that primary residence. This would maintain the single-family residential character of the neighborhood. I've also seen that in order to get approval of an accessory dwelling unit, there is a review process so that neighbors know this use is being proposed. Because, again, there are impacts with increased intensity to neighbors.

I would like permission to look into this. We know they're happening on the peninsula, and we know that many people want them. I get calls daily about it.

**Rudolph:** are we talking about if we have a large garage or a large machine shed or something like that and we want to put a living space above that but it's separate from the residence itself but still meets all the requirements –

**Cram:** for a lot coverage, setbacks, and all that. Yes.

**Rudolph:** that's the only definition I can think of for an accessory dwelling other than just making an addition to an existing building.

**Cram:** there are detached accessory dwellings and attached accessory dwellings. We are constantly looking at this as planners. In the county I came from, we didn't care how many kitchens a single-family residence had as long as it functioned as one residence and couldn't be locked off with a separate entrance or something. I have been using that analysis in looking at some of the additions that are coming in now to make sure it still functions as a single-family residence. Sometimes they want it to function that way. Sometimes they want it to be separate. And so we might see some additions above garages, we might see these happening in lower levels, we might see it happening in a pole barn. If we allow this, there would be standards for the size and setbacks, but it would function as an accessory dwelling to the primary dwelling on the property.

**Rudolph:** what about a mobile home moving onto a property?

**Cram:** I would not recommend that because it takes away from the single-family character. But it is something that could be considered.

**Rudolph:** I can see people saying, "If you're letting me do this in a garage, then I should be able to move a mobile home in here."

**Sanger:** the ordinance requires that the dwelling be 24 feet wide. That has been the standard answer in the township for a long time, that we do not allow mobile homes. There is one zoning district where they are allowed. In the other zoning districts, the dwelling has to be 24 feet wide.

**Cram:** that pertains to the primary residence, and we would want to maintain that. We would have language that maybe did not allow a mobile home if that's the pleasure of the board. There is that consideration that architecture is consistent to preserve the rural single-family character.

**Rudolph:** we still have the short-term rental ordinance on the books.

**Cram:** correct. The other thing I would want to implement and work with our legal counsel on is use affidavits. If someone were approved for an accessory dwelling unit, they would sign and we would record a use affidavit that runs with the land that says they will not use it for short-term rentals and won't sell it separately so that the property continues to function as a single-family dwelling with an accessory dwelling.

**Sanger:** looking at the short-term rental prohibition in this discussion of duplexes, with a suspicion that if we allow ADUs, we're going to end up with short-term rental problems, I like that Jenn is separating these two issues. I believe they stand on their own. Back in the '80s, the definition of "Family" was changed substantially in the ordinance. We were struggling with a situation where one can build a large house, so why can't one build what amounted to two structures that can be used for the same family? We get into the multiple family situation. Then somebody says, "Can we rent it out by the night?" That's where we always tend to go. I asked in this budget that we consider a service that would give us a handle on how many short-term rentals are going on in our township. The company I talked with did a study and gave us a number. In the month of January of this year, this company trolled the internet. They found 47 listings in our township for nightly rentals. We need to determine what is the best policy.

**Chown:** the use affidavit makes a lot of sense. You've got documentation that runs with the property.

**Rudolph:** it would have to be something that stays with the property.

**Wunsch:** it also helps to address another issue that I've seen come up both when Christina [Deeren] was administrator and during the current period where Jenn has taken over a piece of that role. We currently don't allow residential structures outside of the primary residence on a single parcel. We wind up with these questions about, "Is this accessory unit a dwelling or not?" I think if you had a provision for ADUs, it would allow the home office that has a bathroom, or bathroom and a coffeemaker, to exist. Under current conditions we've struggled with, if you have a conditioned space that functions as an office in your detached garage, that's okay. In this work-from-home environment, people ask for a bathroom in that space. I think it would clarify a gray area.

**Cram:** the other thing I realized this evening listening to the public comments is that this also allows people the opportunity to preserve the smaller historic cottages on the peninsula and do something else instead of scraping them and building something larger. This allows families to grow and preserve some of our histories.

**Chown:** it gives people more options. This is the right direction.

**Cram:** I think I could come up with something pretty quick. My plan would be to start working on this and bring some things forward to the planning commission in June and then back to the board. Maybe we can do another joint public hearing.

Currently our zoning ordinance is very clear under section 6.2.2 (e) that short-term rentals or the rental of a non-owner-occupied dwelling for fewer than 30 consecutive days is not permitted. There has been some confusion about whether or not that is allowed in the A1 zone district. There is a legal opinion that says, "Yes it applies to A1." There have been questions about existing non-conforming residential structures in the C1 zone district. Another quick fix to our zoning ordinance would be to carry that language forward under A1 as well as C1 to make it very clear that currently no short-term rentals, or the rental of a non-owner-occupied dwelling for fewer than 30 days, are allowed in any zone district in the township. If state law changes, we would have to amend our zoning ordinance. But this would make it clear to everyone that this is not a use the township currently welcomes.

**Sanger:** it's one thing to say we do not allow short-term rentals. The ordinance doesn't define how we enforce that short-term rental. What is the short-term rental? Is it the advertisement? Is it the contract or the exchange of an agreement with the property owner? Is it the actual occupancy and for what periods of time? Enforcement is very laborious because we haven't defined in the ordinance what we call in criminal law "the elements of the offense."

**Patterson:** it's been litigated across different jurisdictions, court of appeals, the Supreme Court. We would use the other definitions of uses that are listed in the ordinance to draw a standard that we would provide to the court if there is an issue.

**Achorn:** back to this accessory dwelling unit, with preserving the cottages, maybe the cottage becomes the accessory to the main dwelling unit?

**Cram:** that is what would happen, especially if we had those size limitations. In Larimer County, we allowed accessory dwelling units to be 40 percent of the square footage of the primary residence or 1,200 square feet, whichever is less. With those small cottages and historic farmhouses, they would become an accessory to the new in some instances.

**Wunsch:** we have direction on the first two. Building height?



**Cram:** the current definition of building height under section 3.2 is, “The vertical distance measured from the mean elevation of the finished grade line of the ground about the front of the building to the highest point of the roof.” This definition conflicts with what section 6.8 says, which clearly notes, “The maximum building height in all zone districts is two and a half stories and 35 feet.”

The previous zoning administrator was only looking at building height for the front elevation. As a result, we have structures that have been built that are three and four stories. What creates issues is that in order to achieve these false walkout situations, people are either cutting into natural grade or filling. Looking from the road or the front elevation, it's maybe one and a half stories. From the sides and the rear, you end up with three and four stories. Dave [Sanger] and I are dealing with four situations right now where, because of the additional fill that was brought in, there are stormwater issues. In my role as interim zoning administrator, I have been requiring plans to come in that show the maximum building height on all the elevations and making sure it is two and a half stories or 35 feet based on section 6.8. I would like to update our definition of building height. We had a good start on that with the proposed rewrite that we could work from. Having a graphic of how we measure building height will be helpful.

**Achorn:** what about measuring from before rather than after all the fill is put in?

**Cram:** the way I've handled it in the past is that you measure the maximum building height from existing or proposed grade, whichever is greater. If you had to bring in some fill, we would look at the topography of the site and that could count against your building height. Thank you; I'll get to work.

8. Update from Grand Traverse County Road Commission (Kluczynski and Leman)

**Jay Saksewski:** as of last Monday, we've reorganized the road commission. I'm now the director of operations. Previously I was superintendent. All things field operations, engineering, fleet facilities, are under my guise. Tonight we'll talk about road kill, dust control brine, updates from EGLE, and updates on Bluff Road.

In the past 60- 90-day news cycle, EGLE attempted to revise its stormwater discharge regulations pertaining to mineral well brine. This is not an immediate concern for Grand Traverse County as we don't use mineral well brine – we use a calcium chloride product made by Oxy Corp – but it could have long-standing applications. If mineral well brine use is restricted by EGLE, then the demand for the product that we use, 30 percent calcium chloride, could increase pretty dramatically. When you see that demand increase without a sharp increase in supply, obviously that could have strong repercussions on the price. We tried to understand what EGLE's concerns were in terms of mandating some of these decisions and restricting use. Candidly, we didn't understand it. There wasn't a lot of data behind it. It seemed a little near-sighted and arbitrary. So a number of our legislators sent a letter to EGLE saying, “Hey, what is going on?” so they put a moratorium on it. Unfortunately, there's no date or explanation for how long that pause will be. It's a good interim measure. Dust control starts in a few weeks. It's unfortunately not a permanent solution. We're going to continue to play a supporting role.

Regarding road kill, there's not a whole lot of news in regard to the DNR's feedback. If you've not had an opportunity to watch that recorded meeting, we certainly encourage everybody to do so. I can share that link. To preface this, the road commission would not

have changed anything in regards to our handling of roadkill until we were approached by the DNR. I know that's kind of a common misconception. What precipitated the change was when the DNR approached a member of our staff and alluded to repercussions should we continue the activity. We understood the concern. People are out hiking, traveling along public roads, in and around state land, and they're coming upon carcasses. They call the DNR who has to go check it out. They find that it's roadkill. Depending on the season or herd size, we could do anywhere between 400 to 500 deer a season. The DNR expressed concerns about having to evaluate these carcass sites along the public road right-of-way, especially around state land. We took a step back and said we understand the concern. What is the regulation from the DNR to handle roadkill in general? They gave us some pointers. From that date, we have followed their pointers. Unfortunately, now that weather is heating up and there are more deer starting to accumulate in the public right-of-way, that's a concern. It's not something we want to see continue. Our efforts are ongoing. We're reaching out weekly, if not daily, to the DNR, to the county road association, the legislature, for support. Unfortunately, I don't have a lot of news. Bluff Road. Are the parks people still here? I can probably raise all their funds in a dunk tank scenario because the road commission is everybody's favorite topic, right?

**Chown:** are you volunteering? I would love to sign you up.

**Sakewski:** if we can charge a premium on three balls or five balls, we can talk. Quick update on the barriers and signage. At our last county road board meeting, we had a discussion on what is a more viable and sustainable solution for the barricades out there. Right now, we have temporary road closure signs held in place by sandbags. It's not something that was ever intended to be long term. Moving forward with a simple solution, within the asphalt, you'll have two small barricades with a five- to six-foot gap in between. We're still working on the signage that will be placed above those barricades that indicate the road is closed and not maintained for public travel. We don't want it to be considered permanent because we're always working for the solution. That activity starts tomorrow, putting some posts in and putting up small barriers. We heard the concerns, not only from residents in the area but people who want to continue to have access through that public road right of way, even though it's not maintained. So in that simple design, there's going to be a five- or six-foot gap between these barriers in the asphalt. If people want to travel outside of that area, whether on the shoulder or in that public road right of way, there's still room to do so. We want to make sure people are aware of any inherent risk of going there. It's an unstable bluff. We don't know if or when something will happen in terms of a latent failure. We don't want someone who is unaware to happen out into that area. People have to take a meaningful maneuver, whether they're walking, biking, or on a golf cart, to maneuver around the posting of the hazard. It feels like a pretty amicable solution and a fair use of funding. It's not a huge cost to the road commission; it's something we can do in house. If you have any questions, or if people call, feel free to send them our way.

The exciting part of tonight is the grant. We did receive the notification [from Peninsula Township] of a grant that could potentially apply to Bluff Road. I am not a professional grant writer but at first look it does appear to have some merit. My staff is going to talk about this in an initial meeting tomorrow. The hunt continues for a solution.

I understand there are concerns from residents and the township board about what appears to be inactivity from the road commission on the peninsula. One thing I think would be a huge advantage for both of our organizations is to do joint planning. We have a township mapping and project selection process we can work on together. We can sit down to talk about what projects the peninsula is looking for and what things you need from the road commission to make that happen. The goal is an asset management plan for the township and getting the township more involved. The road commission is looking at it from a high level. We're looking at daily traffic volumes, the road rating, the impact to the network. The township knows best which roads are important to the township. If there's a series of roads that meet these kind of merits, we obviously want some input on this one, not that one. I will reach out via email so we can pull something together.

**Chown:** would this be a single meeting? Multiple meetings? What do you envision?

**Saksewski:** ideally, joint planning means recurring, ongoing meetings. Early on, maybe every six months, every year, typically around budget cycles. Eventually that asset management plan could speak for itself. Working together, we could be three years out, five years out, say in 2027, or 2030, make sure you have X, Y, and Z funds ready for some of your projects. It helps us too from a resourcing side, whether it's engineering, design, consulting, surveying. Anything we can do to get out ahead of it.

**Wunsch:** if your group is willing to come out here, it would be a good opportunity for us to fold in some of our residents who are interested in looking at the cost share. You guys do the engineering work, right, on a lot of those subdivision roads?

**Saksewski:** if it's a subdivision, like a SAD [special assessment district]-type project, the cost would be part of that. We say SAD project; we don't really mind where the funds come from, based on the scope of, if it's a local road, what does that share look like? Who's responsible for what aspects of the project? If it's a subdivision, who's responsible for what and what does the timing look like? Is there a desire for more aggressive or more timely action on some of those roads? What does that participation look like?

**Cram:** we have a very active non-motorized committee that would love to come to the table as well.

**Saksewski:** sure.

**Sanger:** we struggle with speed limits in residential areas. I know that's not controlled by the road commission, but there may be some things we can do to slow the motorists down. One thought years ago was that we would try to encourage people who are in a hurry to get on M-37 as opposed to trying to push the limit on our north and south roads.

**Saksewski:** there's many layers to those cakes. We need to communicate these things that just aren't common knowledge. We get calls asking us to put up speed limit signs, but we can't do that.

**Chown:** the weather is going to warm up again in the next couple days. I implore you to keep trying to find a solution to the deer problem. It's going to get bad. It's untenable. It's disheartening that we cannot all come to the table to find a solution. Somebody is not responding to the requests.

**Saksewski:** absolutely. Say the DNR comes to us with a letter that says we can go back to doing what we were doing, or a slightly modified way of doing what we're doing.

Whatever the right solution is, we could start first thing tomorrow morning. But the deer

that have been out there for three or four months are not something our crews are equipped to recover, but they are still going to pose an issue. You folks here at the township, our team at the road commission, the 12 other townships; we're going to be dealing with this all summer long.

**Chown:** we can't be dealing with this all summer long. We've got coyotes and fox and all kinds of vultures out here. The carcasses that are there, they're going to go away. But for the new deer that are going to be hit in the next weeks and months, we've got to have a solution.

**Saksewski:** we're staying engaged with our local representatives and legislators down in Lansing, continuing to push and reach out to the folks at the DNR to get a more amicable solution. Realistically, the only thing we need is a letter that says our folks aren't going to get fined or cited. That's the biggest concern. The team that's coming in for the day to day, if we tell them to go and do something and they get a ticket, even if it's defensible, to have them go through that headache and cost, it's not something we can ask them to do. We just need the go-ahead that says we can get back to work while we find the solution.

**Chown:** before all of this happened with the DNR, when you got the call about a dead deer, you'd go and pick it up, and where did you take it?

**Saksewski:** the rough rule, and this wasn't something written down, was to get it away from the residential areas. Traditionally, it would be a gravel road, a forested area. We put it in the public road right of way, outside of the path of travel in an area that was more remote, to let nature take its course.

**Chown:** still in the road right of way, but it was a gravel road somewhere?

**Saksewski:** based on the verbiage that the DNR is providing in terms of their comment, it paints a picture that our crews were somehow going out into state land and creating dump sites or something, but that's not the case.

**Chown:** there's a letter in correspondence in our packet today from a gentleman who used to work with the police and the DNR and the road commission. He had roadkilled deer brought to his farm and dumped into a pit he had dug, and the eagles would come and feed. That apparently happened for decades. That was not a road right of way. So there's precedent for going beyond it.

**Saksewski:** in some examples. We used to do that in the past as well. If you go into the lobby of the road commission, there's a large print photo of a bald eagle that was taken in a farmer's field of a bird coming to feast on a roadkill deer.

**Chown:** it's a really helpful solution. I think we've probably got some farmers who'd be willing to work with us.

**Saksewski:** I would love to. The road commission activities are exempted from BODA, the Bodies of Dead Animals Act. But once a private person starts to engage with the composting, they may be subject to certain terms and conditions.

**Chown:** if it's their property but they don't touch the carcass, it's okay?

**Saksewski:** no. BODA may still apply. We have MDARD that has the BODA act. We have the DNR that has vested interest in the way we handle and dispose of roadkill. You have EGLE that has concerns in regards to surface water and groundwater contamination. All these legislative entities have slightly varying conditions you have to adhere to. Folks aren't getting together and coming up with with a common solution. That's why we're saying,

engage with our legislators, with the county road association. This is an issue bigger than Grand Traverse County. The enforcement of rules is kind of up to interpretation by the local offices for anyone in the state agencies. We need to come together for a common solution.

**Rudolph:** thanks for coming out and talking to us tonight. I'm encouraged to hear about the grant notification for work on Bluff Road. I'd like to see that go forward.

**Sheriff Deputy Virnell France:** I have questions in regards to the disposal of deer. Peninsula Township doesn't have a lot of forested area. The deer are a serious road hazard. Some of them are physically lying on the road. I've also reached out to the DNR and what they were saying, what you mentioned, was the disposal of deer without permission on state land. Sometimes those deer have been salvaged. So if you don't pull the salvage tag, which is free online, they can get you for poaching, which is a \$10,000 fine. The disposal of deer on state land without permission is considered littering. For disease control, these are things they have to account for. My question is, are you looking at a place to dispose not on state land so we can correct this issue?

**Sakewski:** good question. You have areas that are more densely developed. The southern end of the county, there's not much. I'm not sure if this is the intent of the DNR, but to my knowledge, we have never gone outside the public road right of way and put a deer on state land. Depending on your interpretation, who owns the land underneath the road? Is that an easement? Is that the property of the road commission? That's for legislators and litigators to decide. If they're saying you can't put a deer anywhere adjacent to state land out to the center line of the road where that actual parcel split is, that's an issue. As you were saying, there's not a lot of real estate. Even going back to the '80s, there are letters between MDOT and the DNR where the DNR is trying to give MDOT direction on how to handle roadkill. They're saying there can only be one carcass every 100 feet. If it's a holiday and we collect more deer than usual because our folks were off for a day...It depends on the procedure that comes back to us.

**Ahorn:** what did you do with our deer before this issue came up?

**Sakewski:** the crews that pick up the deer are the same people who do the plow routes. They know the public road network. They know the nooks and crannies, the small sections of forested areas. If you hadn't noticed where they were doing it before, that's the beauty of how they were doing it.

**Wunsch:** if you just need spots, give me a call. Live deer don't like dead deer.

**Chown:** I'm hopeful that TJ Andrews might have some information she can share on this topic too. We are depending on people to make decisions that they're apparently not interested in or willing to make. And we need them to. That's their job. We do have health, safety, and welfare issues that are more intense [than elsewhere] because of our geography.

**Sanger:** I would encourage you to be open to the use of private lands and public lands in our township and others who can help with this. I realize that the county doesn't have a cemetery for dead deer.

**Sakewski:** we are wildly open to it as long as we're not subjecting that private property owner to any undue risk of engagement with outside agency. That would be the only concern from me. We have done that in the past.

**Chown:** when did it change?

**Saksewski:** when EGLE could enforce BODA against a private property owner.

**Chown:** starting when?

**Saksewski:** depending on who wants to enforce it. The actual act itself has been around for quite some time. As we started to review policy and get forced into this corner, that's why we had the meeting with the DNR to ask, what is the recommendation?

**Rudolph:** what happens if a deer dies in my backyard? Do I get a fine?

**Wunsch:** it's the concentration.

**Saksewski:** if you have one, you're okay. If you take 100 from the road commission because you like watching the bald eagles, they might have a conversation with you. I would encourage you to watch the video because there's some feedback from the DNR about what they tell the private property owners to do with deer.

**Deputy France:** when you reference the video, you're talking about the meeting that the road commission had with the DNR that was recorded in December?

**Saksewski:** yes. December 15.

**Deputy France:** that's what I was pointing to earlier. The issue I heard from them is the issue of illegal disposing and people salvaging without pulling tags. Not the removal. They said they recommend that if there are large enough areas where the deer can actually be deposited, that's what they like to do. It's fine to remove them as long as they aren't disposed of illegally on their land.

**Saksewski:** right. That's the feedback we have gotten.

**Chown:** but if that is the case, you could do it tomorrow, as long as you're not putting it on state land?

**Saksewski:** that goes back to the question, and that's the answer that we need. Are they considering state land to be to the center line of the road or are we permitted to operate in the public road right of way? That's what we need clarified. Most of the feedback we've seen is they consider state land up to their parcel line, regardless of whether there is a public road there.

**Achorn:** does the state own land on all roads? You're just talking about state roads.

**Saksewski:** most non-residential densely forested areas that are preferred for disposal are adjacent to state land.

**Achorn:** we don't have that.

**Deputy Virnell France:** just the lighthouse.

**Achorn:** so the other roads are not state roads?

**Rudolph:** no, you've got Eagle Rise Road on part of it.

**Wunsch:** maybe that's the reason it's called Eagle Rise.

**Saksewski:** these are great questions. We just need some information from the DNR so that our folks don't get ticketed. We asked for their recommended practice, and we've been following that, but it's not enough for folks in this area.

**Achorn:** how long will it take to get the information so you can get rid of our roadkill?

**Saksewski:** we have been asking for months.

**Chown:** have you gone above Lieutenant Molnar?

**Saksewski:** yes, to the deputy director of DNR engagement.

9. Resolution 2023-05-09 regarding House Bills 4526, 4527, and 4528

**Sanger:** this was brought to our attention by MTA. It has to do with sand and gravel mining. Three bills are working their way through the legislature. In summary, we've been asked to take a position as a township. This legislation would allow 70-foot-high aggregate stockpiles 50 feet from property lines. It would preempt local control. It would allow for the loading, blasting, and crushing of sand gravel products beginning at 6:00 a.m., six days a week. The hours would be beyond our control. This government body and residents would have input only through public comment periods. It would also impact the noise coming from these operations to an average weighted noise level over eight hours, which has no consideration on the impact of this noise on neighboring homes and agricultural operations. Most importantly, it removes entirely the right of referendum by impacted residents. We've seen other attempts to basically preempt local zoning through state law. The Michigan Association of Counties, the Michigan Municipal League, the Michigan Township Association, and the Southeast Michigan Council of Governments are opposed. I have been working with Becky [Chown] on the preparation of a resolution and ask if she could read that for our consideration.

**Chown:** "Whereas House Bills 4526, 4527, and 4528 have been introduced, threatening our township's ability to regulate aspects of sand and gravel mining operations that impact Peninsula Township residents and the environment; and whereas these house bills sponsored by Representative Pat Outman, Representative Tyrone Carter, and Representative Angela Witwer would usurp all local authority and allow a sand and gravel mine, crushing facility, or storage facility to operate anywhere in a community, regardless of zoning, undermining the ability of local officials to balance the needs of all property owners in the borders of their jurisdiction; whereas under the three-bill package, no local regulations could apply to operation issues that are inherently local in nature, including hours of operation, truck routes, noise, dust control, and fencing; whereas a coalition of organizations representing local governments and supporting Michigan communities and residents strongly opposes this preemption assault on local control by the mining industry, which seeks to silence all local voices on matters that are of local concern, specifically how mines operate, where they locate, and how issues are addressed; and whereas local zoning is intended to protect local residents, and local officials understand the importance of building strong communities, protecting public health and safety, and improving quality of life; and whereas local leaders can best balance the responsibility of being good stewards of public resources, the needs of residents, agricultural operations and businesses that support the local economy; and whereas this preemption of local authority would eliminate all local zoning control of the siting and regulation of sand and gravel mining; and whereas if enacted, would set a dangerous precedent undermining local decision making and setting the stage for further attacks on local zoning; now, therefore be it resolved that the Peninsula Township Board is opposed to House Bills 4526, 4527, and 4528."

**Wunsch:** all those in favor say aye.

**Resolution passed by consensus**

**Rudolph:** you just heard about this today?

**Sanger:** this this has been going on for a long time. We do have one sand mining operation in our township.

**10. Request to deem unused township office server as surplus.**

**Achorn:** I moved this item because it didn't follow procedure. It needs to be published on our website or in the Record-Eagle so that the public has the chance to bid on it. Have we sold the plotter?

**Cram:** not that I know of.

**Achorn:** why don't we combine them for more advertising?

**Cram:** I would like that.

**Achorn:** the server would need to be brought back to the township so that any prospective bidders could inspect it.

**Chown:** I think it's in the basement.

**Sanger:** I support that. It came to my attention that this server was only purchased 14 or 15 months ago for close to \$7,000. Given that dollar amount, I questioned why we wouldn't advertise to try to recoup more of our expense.

**Achorn:** do we have anything else we need to get rid? Anything in the basement?

**Chown:** we could auction them off at the fundraiser on July 22.

## 9. Citizen comments

**T.J. Andrews, Grand Traverse County Commissioner District 7:** I'm trying to unearth and get progress on the deer roadkill issue. I think I share concerns that others were expressing at that meeting on December 15, which I watched carefully almost five months ago. We are nowhere further now than on that day. At that time, the DNR never said anything about changing any practice except disposing of animals on state land. There's no threat of bringing enforcement action, there was no threat that otherwise following BODA has ever been a problem. I talked to Allen Lemen and our administrator. It seems like asking the DNR to predetermine that it will not enforce the law in this county is a big ask. Giving someone a blank check in my opinion is a way to stop, or not take action, and blame someone else. BODA has limits, but it's not insurmountable. These are problems we can solve. We just have to get people in the room. This has become a bigger challenge than it should be.

Four quick summaries of things the county commission has done successfully in the past couple of months. One is that we have signed the Northern Lakes Community Health Enabling Agreement. That has been a year in the works. It's a necessary, helpful process. There are things a lot of us didn't like about it, but we need to move that organization forward. We filled a seat that's been sitting empty on the Northern Lakes Board. We had a highly qualified applicant come forward. I was happy to support his application. And they just elected a new chair to that organization.

Second is an access point, a crisis facility for adults and youth, consolidating services into one place so that a lot of organizations and needs can be met in one location. We don't have that, and people end up in the emergency room, the emergency department, or jail. The idea here is to give people another, better, option.

The third major movement is the youth justice facility. We've been working with our judges to try to get a facility up here so we're not sending people either downstate or out of state when they come into the justice system. We're working with Leelanau County to make that happen. There is an indication that the state will look under the couch cushions and find us some 25 million, which is the number that's been attached. There is some optimism on that front, though it's not without its challenges.



Opioid settlement. Grand Traverse County will have four and a half million dollars coming to us over the next 18 years in sporadic amounts. It's going to be really hard to plan for that. Tomorrow is our first session on that.

These actions were unanimous. Our board is acting together on these issues. That is notable and commendable. We're not unanimous on other things. We take our wins. We're collaborating with other community groups and with other governments. These are critical needs in our community that we have neglected for a very long time. These are services that provide critical support for people. It's a small subset of our community, but when people come into the system, we owe it to them as a county to provide quality services. Ensuring that we're using good science, best practices, modern approaches to all of these behavioral health-related issues in our community is a high priority.

**Chown:** thank you, and if I'm understanding correctly, you watched the video. I have not watched the video. There was no threat?

**Andrews:** I saw no threat of ticketing for picking up animals.

**Rudolph:** that's what Deputy France said as well.

**Chown:** you both saw no threat. Our road commission members are unwilling to continue doing their jobs because they were told to stop putting deer on state land. So we're back to where we were a couple weeks ago when we first talked.

**Andrews:** at the last road commission meeting, I think it was at the end of April, they also said, "We need to resume our practice." That's my understanding of the outcome.

**Rudolph:** the administrator is the problem.

**Chown:** when was this? It would be in the minutes.

**Andrews:** I believe it was April 27. I think it's the last Thursday of the month. Somebody who was there reported to me that at the end of the meeting it was, "We've got to keep providing the service we provided." That's where I thought it left off.

**Chown:** but then tonight is another story.

**Andrews:** I do understand that there's been an official request from Representative Roth to the DNR to please give us this letter. I worry that is going to be an easy obstacle to prevent progress.

**Deputy France:** originally when this came to my door, I got to see the deer that were physically on the road impeding traffic, especially for walkers and bikers on Peninsula Drive. There's no room to get around them. I called and spoke to Lieutenant Molnar. He said, "Absolutely not. We never threatened to fine them." They were getting multiple calls from citizens all over the county. The main issue is not knowing if any of the deer have disease. If you dump them in masses, it can cause a widespread issue with the rest of the living population. He says he recommended finding a new spot to dump them. As [Saksewski] said, he doesn't believe they were dumping on state land. The issue was the definition of state land. What he said is, if you have enough roadway in one of those grass areas away from houses where deer can naturally decompose and not cause a road hazard, we would like that to take place. If that cannot be done, yes, please dispose of them in an agreed-upon area that's not on state land because that's illegal dumping. He said if there are people working for the road commission who happen to salvage parts, please pull your salvage tag. That's where the \$10,000 is for poaching, which is a criminal offense. Giving them a blank letter saying; "We won't enforce any law" isn't logical. I don't

think it's hard to get DNR out here; it's getting them together with the road commission.

**Curt Peterson, 1356 Buchan:** is here to comment on the Bayshore Marathon and the benefit and cost to Peninsula Township. It sounds like maybe tonight you've passed a motion to increase the entrance fee from \$1 per person to \$5 per person. Is that what just happened tonight?

**Chown:** yes.

**Peterson:** and there was a public hearing on this? I don't recall that.

**Chown:** there was a public hearing on the Bayshore Marathon itself.

**Cram:** there was a public hearing on March 14 for the Bayshore Marathon and the Festival of Races.

**Peterson:** we didn't have a public hearing on increasing a fee from \$1 to \$5. You had a discussion but not a public hearing. I hope in the future you will rethink this. That's going to put something like \$45,000 on the Bayshore Marathon. Right now they pay us approximately \$7,000. And there's also a benefit to many organizations in the township. We have aid stations. The library had an aid station; they're paid for that. The Old Mission School has an aid station; they're paid for that. There are many other organizations in Grand Traverse County that have aid stations and are paid for this. The Traverse City Track Club in 20 years has given more than \$2 million back to the community, sometimes in the form of scholarships for students. Many township residents participate in this event. I'm a volunteer. People are preparing for this. They're out there training and running. So it provides health and benefits for our residents. I hope you will rethink this 500 percent increase in the fee to the Traverse City Track Club. As Becky noted, they're a non-profit organization so they're not making a lot of money on this. Thank you.

**Nancy Heller, 3091 Blue Water Road:** this is in reference to the Seven Hills SUP. I attend these meetings. I misinterpret. I'd like to get clarification on the discussion of the expansion to 70. Is this just for that particular area? How many people can that site support with the parking limitations? There were some big discussions about this.

**Cram:** capacity was based on several things. They asked to increase their capacity specifically for the front or eastern building where the coffee and whiskey bar will be located. In their first amendment, they were limited to a capacity of 32 people for that portion. There's the building in the back that has Tinker Studios. They are now proposing a one-chair hair salon. There is an office space that could be rented. They're going to use some space for storage. All of the plans lay out the square footages and all the specific uses. There is parking for those uses. They have different calculations. The other thing we had to look at was the on-site septic system. That is very specific. That's where they came up with the 70 people, because that's all their onsite septic system can support. The Grand Traverse County Environmental Health Department considered the type of service they were going to have. Information was included about how that capacity was calculated. That maximum capacity of 70 people applies to that front eastern building. It is limited to that building and the dedicated outdoor space. They can only have 70 people total inside and outside at any time.

**Heller:** is the septic system shared or is it just for the whiskey bar?

**Cram:** the onsite septic system is for the entire property. The environmental health department and their engineers calculated the capacity for all the uses as proposed on the

site. With all the uses, including the back building and what they want to do in the front building, their on-site septic system is sized appropriately. They can have 70 occupants indoors and outdoors for that use.

**Heller:** for the whisky bar.

**Cram:** yes. But there could be more than 70 people on the entire property at one time if someone is at Tinker Studio shopping or someone's getting their hair done or working in the storage space. The Environmental Health Department has reviewed all of that and we've had multiple conversations. My email correspondence was included in the packets for public review.

**9. Board Comments:** none

**11. Adjournment**

**Sanger moved to adjourn with a second by Achorn.**

**Motion passed by consensus**

**Meeting adjourned at 10:18 p.m.**