

PENINSULA TOWNSHIP

13235 Center Road, Traverse City
MI 49686

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Township Board Special Meeting

May 23, 2023, 7:00 p.m.

Township Hall

Minutes – Corrected on June

21, 2023 by the clerk

1. **Call to Order** by Wunsch at 7:01 p.m.

2. **Pledge**

3. **Roll Call**

Present: Wunsch, Achorn, Sanger, Rudolph, Chown

Absent: Wahl, Shanafelt

4. **Citizen Comments:**

Sally Erickson, 2228 Kaukauna Ct., Traverse City: I am the developer of Port of Old Mission. In regards to your upcoming agenda items, how will you be enforcing those items as they come forward? With the Seven Hills [Development] and with the vineyards, what are the mechanisms of enforcement for the requirements they'll have to meet?

Cram: in the packet is a findings of fact and conditions. If the board approves the Seven Hills Development this evening, those conditions will be binding. If we receive a complaint, we will investigate. Citizens reach out to me to express concerns, and [township board member] Dave Sanger also acts as our ordinance enforcement officer. Depending on whether it's a specific condition or part of the approval of the special use permit or a violation of the zoning ordinance, once we receive a complaint, we investigate and then work with the applicants. If there is a compliance issue, we work with them to bring them into compliance.

Erickson: thank you; that answers my question.

5. **Approve Agenda**

Chown moved to strike business item number two from the business agenda with a second by Achorn.

Rudolph moved to approve the agenda as amended with a second by Sanger. Motion passed by consensus

6. **Conflict of Interest:** none

7. **Consent Agenda:**

1. Reports

A. Peninsula Community Library

B. OMP Lighthouse Litter Collection

Chown moved to approve the consent agenda with a second by Rudolph. Motion

passed by consensus

8. Business:

1. Continued discussion of proposed Seven Hills SUP #35, Amendment 2 with potential action to occur (Cram)

Cram: the Seven Hills Development Special Use Permit #35, Amendment #2, is a request to increase the capacity of the approved coffee and whiskey bar from 32 patrons to 70 patrons, both indoors and outdoors, and to add outdoor uses with the potential for amplified sound. The board heard this [discussion] at a public hearing on April 11 and was generally comfortable with the requested amendment. We learned about some of the definitional challenges with the language in the MLCC small distillery license and our zoning ordinance. The board tabled any decision to the May 9 meeting. At that meeting, staff and legal counsel continued their work on the findings of facts and conditions to address these definitional issues as well as a resolution that will allow this application to move forward in compliance with MLCC and our zoning ordinance. Those changes have been included in your packet. It is a complete packet for the record. Bill Richardson with our legal counsel is here to answer questions. I did receive some comments once the packet was published from both Amen [Shanafelt] and Rudy [Rudolph]. I propose one additional condition of approval to address them. On page nine, create a new number 19. Re-number the current 19 to number 20. The new condition of approval, number 19, would read, "The site shall be developed consistent with the approved plan and with the information contained in the application and packet materials. The applicants shall be subject to all other verbal or written representations and commitments of record for the approval of Special Use Permit #35, Amendment #2. Any changes to the use of the property, including the small distillery liquor license and associated tasting room, shall require the approval of an amendment to Special Use Permit #35." Based on the information the applicants have provided to help the board and staff understand what to expect will be happening on the property, which is included in the packet, we should have a clear record that we're all on the same page with this approval.

Richardson: one thing I would like to correct in section 8.1.3. in "findings for general standards" under D is "Staff reached out to the Grand Traverse Road Commission to see if no parking signs can be placed on Seven Hills Road." There should be quotation marks around "no parking." Everything else seems to be in good order.

Sanger: regarding the MLCC license, is this going to be a small distillery license only? Are any other licenses contemplated at this time?

Cram: at this time, the approval is specific to the small distiller license. If the applicant wants additional licenses, they will need to come before the board and request an amendment.

Sanger: I'm concerned about the connotation in "Any changes to the use of the property, including the small distillery liquor license..." I read that to mean any changes to the small distillery liquor license as opposed to any other MLCC licenses. I think that should be clarified.

Cram: suggestions?

Sanger: [change it to] "including the small distillery liquor license and *any other MLCC*

licenses” so it's clear that tonight we are approving the distillery license only. What I hear you saying is, any change to that license or, for example, obtaining a small winemaker license, would reopen this SUP. I don't get that from this sentence.

Chown: that phrase would go after “and associated tasting room.” So, “Any changes to the use of the property, including the small distiller’s liquor license and associated tasting room and/or any other MLCC licenses...”

Sanger: what we're saying is, any change to MLCC license. I think we want to take a broad view here as opposed to a narrow view.

Cram: “Or any other MLCC licenses”? Or “future licenses”?

Chown: “Or any other additional MLCC licenses.”

Sanger: I would even back it up: “Any changes to the use of the property involving MLCC licensing, including the small...”

Chown: that would work as well.

Cram: how would you word that again?

Sanger: “Any changes to the use of the property *regarding MLCC licensing.*”

Achorn: I think that excludes property.

Cram: I know. I wanted it if there were any uses. The uses are very specific to the defined outdoor seating area. I wanted it to encompass both.

Chown: “Any changes to the use of the property, including MLCC licensing, the small distillery liquor license, and associated tasting room...”

Achorn: you missed “and any additional MLCC licenses.”

Cram: what if we said, “Any changes to the use of the property, including MLCC licensing, shall require the approval...” That would include all MLCC licenses.

Jordan Valdmanis, 16330 Peninsula Drive: I thought we were talking more about the processing end of things. The small winemaker license and the small distiller license work together. They are the same thing in terms of the manufacturing, the processing; it happens the same way. I don't know if we are able to use the verbiage in line with the processing rather than adding on... The winemaker and the distiller are pretty much the same thing, just two different types of spirits.

Cram: we were trying to accomplish allowing you to move forward with the approval that the board had given you for the small distillery and the tasting room. The board understood that was going to be limited as part of your restaurant/tavern use. Then we realized that there were these definitional issues because of manufacturing in the C-1 zone district. We would have to update the zoning ordinance to allow other liquor licenses on that property. We plan to do that. At this time, there is concern about the small winemaker license that you have applied for.

Jay Milliken (speaking from audience): this all came up because of the winemaker license.

Cram: correct.

Milliken: the DSP [distiller permit] was previously approved. We came back to discuss this because of the winemaker permit that was sent to the board as a notification. That's how this all began. Then we were working on definitions. I'd love for the attorney to chime in. We came in thinking this was to allow for our winemaker and our DSP because they're both just tasting. We're not doing anything different between the two. It's the same use

for the building. It's tasting wine; it's tasting spirits. There's no manufacturing, there's no processing; it's one and the same for the whole process. We came in for this definition of manufacturing and processing. Our properties had manufacturing and processing on them for years, heavy industrial manufacturing, in fact. This is another shocker at the eleventh hour. We're trying to work through it. I'd appreciate it if Bill [Richardson] has any comments. This is a big shock right now.

Cram: we worked with our legal counsel to allow this to move forward with the approval that you have for the small distillery and tasting room. We are looking for updates to the C-1 zone district. In the future, if the zoning ordinance is updated, you can apply for additional liquor licenses, but it would require –

Milliken: you allow it for agriculture and residential but not for commercial zoning?

Cram: we allow a small winemaker license in the A-1 zone district with the approval of a special use permit. It requires minimum acreages and setbacks to minimize the negative impacts.

Wunsch: [we] are planning on making these changes quickly. We want to get you guys through and open. But our attorneys have advised us that it would not be a good idea to permit the small winemaker until the ordinance is updated.

Chown: do we have an idea of the timeline for updating that?

Cram: as soon as I can. I'm working on several amendments to the zoning ordinance currently. This will be a priority, and I believe this is an important amendment to the zoning ordinance that supports the work we did for Amendment 201, Farm Processing, and everything we've been learning about the WOMP lawsuit. I will work with our legal counsel to move it forward as quickly as possible because there are some other things that we want to add, such as uses and to clarify some things in the C-1 zone district. I would say late summer, early fall.

Wunsch: is there anything we can do to expedite the process? It sounds like we intend to make the policy changes. [The applicants] have been through a drawn-out SUP approval process. If we change our ordinance to allow a simple expansion of the use, we shouldn't have a long, drawn-out process for making the update to their SUP. Is there a way we can streamline both the cost and the procedural stuff? If we had the staffing capacity we need, we probably would have been able to dovetail these two issues simultaneously. We don't have that capacity right now. I've heard Jenn [Cram] say the proposed use does fit in the C-1 zone district, but counsel has told us that we need to make changes to our zoning ordinance before we can justify doing that from a legal standpoint.

Ahorn: once the update is made, it should be a simple paperwork amendment.

Cram: at the April 11 meeting, the applicants requested a probationary period for their hours of operation. The board opted to leave the closing time at 10:00 p.m. to make sure that [time] works. We talked about my idea of proposing a minor amendment to an SUP. I could propose the minor amendment to an SUP be updated in the zoning ordinance along with these amendments. I work for you. If you tell me this is a priority, I will put this zoning ordinance amendment before all the others we have been talking about.

Sanger: it has to go to the planning commission. There's a timetable as far as set meetings.

Cram: at a minimum, I think we could have this through in three months. It has to go

through the planning commission. We could have a study session with the planning commission and the board and a joint public hearing to move this forward. I am up for that challenge.

Chown: yes, let's expedite this.

Wunsch: and try and get an administrative special review process?

Cram: we can talk about an expedited process for minor amendments to SUPS. These minutes and the whole process we went through is great documentation to say why this amendment could be a minor amendment.

Chown: it's a lot of work now when your plate is very full, but in the end, it's going to make your life and applicants' lives easier.

Cram: based on the conversations we've had on farm processing, the C-1 district is where we want to have tasting rooms and retail sales of products produced as long as we are minimizing the negative impacts. This scope was very narrow. The applicants agreed that there wouldn't be the manufacturing that comes along with fully distilling something. We have to look at standards to address smells and noise and all of those things to open this up in the C-1 zone district. It needs to be thoroughly vetted.

Wunsch: you are proposing, if the board desires, that we'll push everything but the small winemaker piece through this evening. You'll shoot for getting the ordinance updated within the next couple of months. Simultaneously, there'll be a process where they can work with you to add the small winemaker piece instead of having to go through this whole process again.

Cram: it is dangerous to update the zoning ordinance for just one project. These updates will also benefit other owners that have C-1 properties. This will provide a wonderful opportunity for agricultural operators who maybe have a wholesale farm processing facility who could have a tasting room in the C-1 zone district. This could help us open a cooperative that could offer tastings of other wineries on Old Mission Peninsula.

Chown: it's exciting to consider.

Jay Milliken, 7580 East Shore Road: whether we're serving a glass of wine or a glass of spirits, the licensing is the same. The concern from the board was processing and manufacturing; it's the exact same. A glass of wine has much less alcohol content than a glass of spirits. I don't see any difference. We've been through this process for two years, and I'm having a hard time understanding, with all due respect, just what the thought process is or why it's different to have a winemaker in addition to the DSP (distiller permit). DSP was approved back in January of 2022. We came before you because you received a notification about the small winemaker permit, and that's why we're here now again for the last couple of months. It sounds like you guys have already done all the work. And we've done all the work on findings of fact of how this makes sense in a C-1 zone, to do the manufacturing and processing, which we're not doing. Definitionally, I'm having a tough time grasping this and I appreciate the opportunity to talk and maybe the attorney has better insight, but I just I don't understand the difference at all.

Cram: it would have been helpful if you had told us upfront that you were applying for that license. We didn't learn about it until we received a letter from the MLCC.

Milliken: (LAURA, WAS THIS MILLIKEN OR VALDMANIS?) we have been fully transparent all

the way through. I wasn't trying to sneak anything by anyone. It was our understanding when we're applying for a license, whether it's a full commercial license where we can buy anything and sell it, which are not available out here, or the DSP, which we explained two years ago in the first meeting. This winemaker thing, once you're approved with the MLCC, it's basically an additional box check that you can serve wine as well. You cannot serve beer unless you have very specific equipment and square footage for the equipment. That's never been in the cards for us. We know we can't do beer; it requires more from our septic and our drainage than we have. The winemaker permit was something that as we were getting through this, we checked another box, paid another fee. You received the same notification for the DSP at the township as well, and there was never a question at that point. So the winemaker, someone was reading the mail that day. We weren't trying to pull anything over on anyone; we knew you would get a notification. We were going through the process regardless. We said, "They're looking at it again; let's apply for this as well." Because we do want to serve wine. We're focused on our spirits, but this is a winery peninsula. People are coming for our spirits, but if people don't drink spirits, we can offer them wine. That's all. It doesn't put more stress on the drain field or the septic. It doesn't put more stress on the neighborhood. People who drink wine tend to be very mellow, as we know. The music doesn't get louder. The traffic doesn't get heavier. Nothing changes by serving wine. Thank you for your time.

Cram: we have to proceed very cautiously because of all the work we did in updating the farm processing amendment specific to making wine and the negative impacts of that. We are currently in a lawsuit regarding that.

Milliken: it's totally different; we have discussed that many times.

Cram: it is not.

Milliken: it really is because we're not a winery. We're a tasting room. The wine is already made.

Cram: but those licenses allow you to do more than what you are committing to.

Rudolph: the problem is that the license says you can distill and you can make wine.

Milliken: correct.

Rudolph: that is the problem.

Milliken: but we're past the distillery part so I don't know what the difference is.

Sanger: our zoning ordinance does not allow a wine tasting, wine-making operation. I know you're arguing manufacturing versus blending. Our ordinance right now does not allow the use you are asking for in the C-1.

Milliken: it doesn't disallow it either, right?

Cram: that's how our zoning ordinance works. If a use is not specifically noted, then it's not allowed.

Milliken: it doesn't allow for distilling either but we've achieved a way to get through that.

Cram: the board is honoring the distillery license it approved in 2022. This was a creative way to move you forward.

Valdmanis: the effects of the verbiage of different agencies doesn't match up. We've gone from Peninsula Township to Grand Traverse County to MLCC. There's a lot of verbiage that doesn't match up.

Milliken: I don't know why we didn't do it all together? We went through this process, there was a question on the DSP, you knew the winemaker was also part of that –

Chown: we could have postponed this approval until we updated the zoning ordinance.

Wunsch: I think we're on the same page about what should ultimately be allowed there, but we've spent three quarters of a million dollars out of pocket in the last year in litigation.

Milliken: we're way over that in our budget.

Richardson: broadly speaking, including a winemaker license might impact some of the litigation we're going through. I don't think a setting like this is appropriate to discuss these matters with the board. There's been a lot of legal consideration put into the distinction between a distiller license and the small winemaker license. We're proceeding in a fashion that doesn't strictly take into account what the applicant wants; it takes into account the township's and residents' needs. Caution is the letter of the day right now.

Chown: and it's apparent, from the somber tone in the room, that we're not happy about the situation either. We're unhappy on your behalf. We're unhappy on our behalf as well, but we need to move very carefully. I have worked with Jenn long enough to know that when she says she's going to do something as swiftly as she can, that is exactly what is going to happen. We will get this figured out as quickly as we can.

Achorn: if we approve this second amendment as it sits, when do you expect to open?

Milliken: as soon as this weekend.

Valdmanis: we've passed all our inspections as of today.

Achorn: is your building finished?

Valdmanis: yes.

Chown: it's beautiful. You did a smashing job.

Cram: so we do need to take care of a land use permit sooner rather than later for the increased capacity.

Valdmanis: we understand the capacity right now would have to be 32, but depending on how things go in the next 10 minutes, hopefully not three hours, I'm ready to fill that out this evening. We can do it tomorrow. We have the information needed.

Wunsch: given the corner we're painted into, the preference is to approve the second amendment and work through the wine thing as swiftly as we can?

Valdmanis: yes, please.

Rudolph: from a business standpoint, [the applicants] would be able to serve hard liquor but would not at this point be able to serve wine. Is that what I'm understanding?

Milliken: that is what we are being told by the township board.

Sanger: I certainly feel bad, but I want to be careful the board is not committing to a timetable. We have to go through the public process. I don't want to shortcut any public input. I'm concerned that we're moving down a path of trying to get this done as quickly as possible. It's going to take time.

Chown: we can't shortcut it but we can make it as efficient as possible.

Sanger: this is not the only property affected in our township. There are multiple zoned commercial properties. Even though I feel bad about this, I didn't fully understand upfront why they were not going to seek a commercial C-1 license. If they had sought a C-1 license

earlier... I only found out six weeks ago that there are no more C-1's available in our township. If we had known that two and a half years ago, this would be a different meeting tonight. This is a unique problem created by the fact that the remaining C-1 licenses in our township were purchased and taken out of our township. Somebody paid and took them. So we've put this [Seven Hills] business in a kind of predicament where if they had been able to seek a C-1, I dare say we wouldn't have spent this much time on this. It troubles me. At the same time, I'm concerned that we must have full support of the public in everything we do to fix this situation. As a board member, I'm not committing to fixing it the way we're talking about because I'm not sure that once this becomes public...We may see new information. I hope not, but we don't know.

Wunsch: it has to go through public process and the planning commission. But it seems like there is consensus for the board at least that the distiller use is similar enough to the winemaker use that is proposed for the site that we want to see language to that effect.

Cram: to be clear, the small distiller license is the same as the small winemaker license. It allows for manufacturing. We were able to move forward on a very narrow path with the resolution and findings of fact because the applicants have agreed that they're not going to be doing all the things the MLCC license would allow them to do; they're only going to be blending, bottling, and labeling. If we're going to amend the C-1 zone district to allow those types of licenses, we need to think about the negative impacts: setbacks, all of those things. We're going to have to be very thoughtful. Our C-1 zone properties are small. They're surrounded by A-1 and residentially zoned properties. We have to give it the same thought that we did for farm processing to mitigate those negative impacts. Because someone else who owns C-1 might want to take full advantage of what that license allows and there are smells and noises and things like that associated with it.

Chown: it's all about anticipation so that we don't inadvertently create more problems.

Cram: we will continue the good work we did with the farm processing amendment. The situation was different for the A-1 zone district. When we were looking at farm processing, we wanted to allow the agricultural community to be successful. The farm processing allows another avenue for adding value to what someone grows. This is a retail, commercial use. It also brings benefit because we want our property owners who have C-1 properties to be successful.

Chown: we can't avoid it. We have to do it sooner or later. It's before us now. I think it's appropriate and respectful of these four men to take this on and give it our full attention in the coming months.

Richardson: you can approve the findings of facts and then approve the resolution.

Sanger moved to approve the findings of fact as amended with moving #19 to #20 and adding a new #19; the site shall be developed consistent with the approved plan and with the information contained in the application and packet materials. The applicant shall be subject to all other verbal or written representations and commitments of record for the approval of Special Use Permit #35, Amendment #2. Any changes to the use of the property, MLC licensing, including the small distillery liquor license and associated tasting room, shall require the approval of an amendment to Special Use Permit #35 with a second by Rudolph.

Motion passed by consensus

Rudolph moved to approve the findings of fact and conditions as amended with a second by Chown. Motion passed by consensus

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

Chown moved to approve Resolution 2023-05-23, Amendment #2, Special Use Permit #35, with a second by Achorn. Motion passed by consensus

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

9. Citizen Comments:

Sally Erickson, 2228 Kaukauna Ct., Traverse City: I am here because you're doing a special use permit and working on SUPs and enforcements. We are very concerned with how special use permits have been enforced in Peninsula Township, in particular the beach frontage usage. I want to bring that to the attention of this board. For almost a decade, maybe longer, there have been concerns by the citizens of Peninsula Township, by our membership at East Beach Association, about enforcement of the special use permit by Hidden Ridge. It has not been enforced. Tonight you spoke very strictly about how important enforcement is. As a developer, I respect and appreciate that. I am asking that this board enforce the rules that are in place for beach usage in Peninsula Township. Thank you.

Jordan Valdmanis: to clarify, we work with you doing the land use permit. Once the land use permit is through, we are good with updated capacity and outdoor seating. Correct?

Cram: yes.

Wunsch: we are hung up on the wine and trying to fix that from a policy standpoint.

Valdmanis: we understand that and appreciate you. We'll get the land use permit in tomorrow.

Paul Ton, 6296 East Shore Road: I'd like to reiterate Sally's comments. We've been contesting this Hidden Ridge Marina, we've come to call it. There are 25 boats on about 150 feet of shoreline. That's been going on for years. I know that there's an endorsement; it appears to be something that can't be enforced for some reason. It's been a bone of contention. I don't know where it stands. I know there were lawsuits and that lawsuits were dropped, but it still annoys the heck out of the neighbors. They run their dock out at about a directly southeast, 135-degree angle. It overlaps other properties completely, mine partially.

On another note, on East Shore Road, I have connected to the city water and sewer. I just bought in there a couple of years ago. I was getting billed \$54 a month for water and sewer. A couple months ago, without any notice, my bill jumped up 40 percent. I called the city and they said, "There's a rate increase." They said they had nothing to do with that; they pass it on to you guys. I understand supply issues and inflation, but I'm being billed for 600 cubic feet of water minimum. That's the minimum. I use about 250 cubic feet of water a month. What do I do? Is there anyone I can complain to? If I would just get billed for what I'm using [that would be acceptable], but I'm being billed for more than double that on an average basis. In the summer, I use more water for gardening. Throughout the year, I'm not even using half of what I'm getting billed for. It's \$75 a month. It's starting to add up. Can you tell me, is there someone I can talk to about this? How does this work?

Wunsch: this has come up a few times. We voted to approve rate increases from the DPW,

the Department of Public Works, which provides your water and sewer services. But we don't have any direct control over the rates they charge to the users. When people call DPW and complain about the rate hikes, it is accurate that the township has chosen to increase rates. They're sending a 40 percent increase in rates our way. We're essentially left with the choice to pass fees on to people who are connected to city water and sewer or subsidize those from some other source. We don't have a lot of other sources.

Ton: is there any way to reevaluate the minimum rate charge?

Achorn: can I direct you to last winter's newsletter? There's a long article about it. We can send you a copy of that.

Chown: I have a PDF I would be happy to email you if you'll reach out to me.

Rudolph: is it on the website?

Chown: it was on the website; it may still be there. If you'll call our office tomorrow, we'll help you.

Cram: the board discussed this at a public hearing. It would be in the minutes of that meeting as to why rates increased.

Sanger: the treasurer made a report sometime in the winter and told the board that costs to the township had risen. Over the years, the township was slow in recovering that cost increase from users such as yourself.

Ton: I understand that; I'm just questioning the minimum rate.

Achorn: I don't know the minimum based on the water department billing. But the reason the township had to raise the rates was that since the beginning of the water coming into Peninsula Township, the rate was never raised. Thereafter we were charged more each year. The county went out for bonding, and the township had to pay for those payments on the bonds. The rates were never raised to cover those bond payments. Three years ago, we had a serious discussion with John Devosso from the department of water and sewer. We had to go through a detailed examination of our records for water and sewer and what the state requirements are for us to stay in business with water and sewer. We followed those recommendations, and the rates were increased this past fall and the year before.

Wunsch: do you know the minimum assessed to us by the county?

Achorn: I don't know what they consider the minimum. We were just told to raise the rate.

Wunsch: imagine Peninsula Township as a big group of friends who are going out for a meal together. The township has to decide how we're going to split the bill up, but the Department of Public Works is setting the menu price. We've been given pricing. I think we should look at whether we can change those minimums unless those are billed directly to us. It's on our radar to look at. We're looking at how we deal with rates for the future, how much flexibility we have within the rate structure. The dollar amount that would have to be assessed across the township is a fixed amount. We might have some discretion with the way those charges are split up. We're trying to figure that out.

Achorn: we are scheduled for another meeting next fall. Now that we know about it, we can discuss how low the minimums could be or if they could be reduced.

Ton: will that be on an agenda?

Achorn: it will be on the agenda.

Wunsch: it will show up as “sewer and water rates discussion.” Do you remember which month?

Ahorn: usually October, November.

Chown: Paul, it would be helpful if you would write an email and document what you use and what you’re paying. It would be helpful to have that in writing.

Ton: send it to you?

Chown: yes, please.

Wunsch: your comments echo what I’ve heard from other residents.

Erickson: you gave him so much direction on how to troubleshoot his issue. I would like some direction in how to troubleshoot ours with the beach issue.

Wunsch: Jenn [Cram] was planning on bringing this up.

Cram: I’m planning to take it to the planning commission first and then the board. Then potentially a joint public hearing.

Wunsch: do you know which planning commission meeting?

Cram: hopefully the planning commission meeting in June, then back to the board in July.

Wunsch: do you know the date?

Cram: the planning commission meeting is the 19th, I believe. The zoning board of appeals is the 20th. So, planning commission on June 19, township board on July 11 to start to get public comment. What we need to look at is where the township is authorized to regulate such uses. We know we need to look at how things are impacted as far as parking and sanitary. We have to work with EGLE and Army Corps regulations as well.

Erickson: as it stands, they have a special use permit in place. They are allowed to violate that special use permit consistently. How can you allow that? Your rules mean nothing if you don’t enforce them. Why exactly as a developer did we follow all the rules? We built 171 units. And now, a development totally adjacent to us, threw the special use permit out. I realize they bought in duress from the bank, but that did not throw out the master deed. The master deed was 100 percent in place when those folks bought. It was 100 percent in place with this township. It's 100 percent in place for the folks you just approved. It's not right. The people who have had to endure this have grown weary. There have been lawsuits. I know that has come from the other side and scared the board because nobody wants to get sued, but if there's an incident where someone is hurt or killed or run over by a boat because the ordinances are not enforced, I think that is a huge open Pandora's box and you guys hold the key. I think it's really scary. I wouldn't want to be in your position. Right now, I feel that if something crappy happens, the rules have not been enforced. I'm really sorry. This sounds so terribly mean but I'm watching these boats go zipping through. We know the rules. We can have 21 memberships. We control it tightly. We can only have three boats. We have 171 units. If I did what Hidden Ridge did and turned that into a common element? I'm just asking you to use the rules the way everybody else has to use them instead of this level of entitlement that occurs next door to us. They're not bad people, but they're taking advantage of you guys and everybody else. It's a bad precedent for the entire township and for our Great Lakes Basin. We're all supposed to be stewards of this amazing thing that we have around us, and we're not being stewards when we allow them to throw the rules out. So I will be at the meetings

and I appreciate any help you guys can give. I think you are in the hot seat because if something terrible happens...The rules have been thrown out.

Sanger: things have changed. Today we have two new players affecting the issues on our waterfronts. We have the State of Michigan through the Department of Great Lakes and Energy involved in the permitting of docks, buoys, and mooring buoys. We also have a new player, the Army Corps of Engineers. I thought when I joined the township planning commission in the year 2000 that our ordinance applied everywhere in our township. Our township extends halfway to the other counties and that includes Power Island. Now we understand that there are two players in the matter of what happens at and below the high water mark. We need to tell the public. We have to solve a problem that does not just involve Peninsula Township government. It involves these two other governmental agencies. There are things this board can do, but there are things we probably can't do unless all three of us get together.

Cram: I will need help. I feel much more comfortable updating the C-1 zone district than I do addressing this. I did come into this problem late.

Wunsch: the way the process is going to work is, you're going to take it to the planning commission. You're going to get input from people on the Hidden Ridge side of things, and input from people who are not on that page. You're going to figure out the will of the public and then work with legal counsel.

Cram: can we reverse this? Bring it to the board first to hear where the board would like to go?

Sanger: there is new information from the last several years. We all think, for example, that much like the inland lakes, your property boundaries go straight out. They don't. Different rules apply on the Great Lakes. That's something we have to factor into our ordinance. The township, by the Zoning Enabling Act, can enact ordinances to regulate the health, safety, and public welfare of our residents and visitors. There seems to be an issue applying that right to land owned by the State of Michigan. We're going to have to try to figure out what's best for our residents. But it might conflict with what EGLE or the Army Corps wants to do.

Erickson: let me speak to that because those two entities were to be respectful of the local ordinances based on what I've read in their rules. What happened was, Hidden Ridge went to get that change at EGLE and there was not representation from Peninsula Township at the meeting. We didn't have someone go to that meeting and say, "No, this is not respectful of our ordinances." It's typical for those government entities to be respectful of you guys because you know best what the public in your region wants to have happen. And I do think you know best what the township residents want over EGLE or anybody down in Lansing. This is important because it's about our state but these issues are multi-state and it's a bigger issue. Yes, we do have to get people on the same page.

Cram: thank you for your comments.

10. Board Comments:

Wunsch: try to figure out at the planning commission level where the community stands. We need to get a pulse on what the public would like to see. Personally, I like the idea of trying to hold people to the agreements they made and their special use permits to the

extent possible.

Cram: agreed.

Rudolph: do we have any contact with EGLE? It seems to me that's where we need to start and say, "This is a problem out here, and how are you going to help us address it?"

Wunsch: where we're at right now is looking at updating the zoning ordinance.

Cram: it's not helpful for us to update the zoning ordinance and then have EGLE issue permits that are in conflict with the zoning ordinance. It is a conversation, and we are now saying, "We reserve the right to get smarter." We now know that we need to participate in these applications. When EGLE –

Chown: extends an invitation, we had better show up to the party.

Cram: yes. Now we're working behind the scenes to amend this to help them understand the concerns we have. We know that Hidden Ridge is not the only issue out there. I am receiving complaints from other neighbors. What's really sad is that neighbors aren't neighborly anymore...That someone would think that they can project in front of someone else's ability to enjoy the Great Lakes.

Rudolph: it's an entitlement mentality.

Cram: how do we draft a zoning ordinance that helps people be kinder to one another? It's unfortunate but it is a very complex issue. I will need support.

Rudolph: my understanding is that EGLE does have pretty close regulations on marinas. It appears to me as if some of these subdivisions are acting as marinas, so EGLE should be involved from the standpoint of regulating them, and I don't see that happening.

Cram: maybe we define some minimums. If there are so many hoists that it rises to the level of a marina, there are specific standards for that.

Sanger: the EGLE standpoint is that they do not permit temporary docks or hoists. They do permit mooring buoys, which are permanent. The temporary docks and hoists that are causing our problem essentially are not within the purview of EGLE's regulations. We need to seek legal advice or some discussion with these two governmental agencies. Army Corps is concerned about hazards to navigation. [This is] probably not a big deal to the Army Corps, given our peninsula. If we were part of a shipping channel, that'd be something else. We need to understand the constraints that are imposed on us by the owners of the property, namely the state and the feds. We have to start there because I see our community being polarized. Those people who are living near a shared waterfront are upset about the activity. They're upset about the fact that the marina is covering their view of the water. We need to understand to what extent the township can control that. The other element I see are those who have private ownership. They control very carefully, but that could change. Much like we have short-term rentals on homes, we could have rentals of docks. That hasn't started yet, and I hope it doesn't. We need to do some information gathering to help us focus on the solutions we can implement and what can be implemented by other government agencies.

Wunsch: it's also important for board members and residents to weigh in with state legislators. On so many of these issues, what we learn is that state government has chosen to either take away local control or limit local control. Then the state regulations have been gutted. I'm sure at some point EGLE had control over temporary docks and hoists,

but then they decided they weren't going to regulate those, but then they also weren't going to allow local units to regulate them. I think it's important if you're talking to the state legislative delegation to make them aware of these kinds of issues.

Cram: there are other things we can do to tighten our special use permit approvals as well.

Wunsch: absolutely. Okay, we have some good news on Bowers Harbor.

Chown: the pickleball group has been working hard to raise the money to build their new courts at Bowers Harbor Park. For a variety of reasons, the location of those courts is where the existing basketball court is. That court is in terrible shape. The town board was not willing to allow an existing use to be eliminated. We were going round and round trying to figure out where to put basketball and who would fund the cost of a new court. We were at a stalemate for a while because our funds are very limited. We came up with a solution to use the existing tennis courts as dual-use courts. They've been dual-use courts for the last few years with tennis and pickleball. Then the engineers at Spalding weighed in and said, "It's dangerous. There are liability issues. We cannot in good conscience participate in this plan." In the meantime, the pickleball players have pulled the trigger with Elmers to do the foundation work for their new pickleball courts. I talked to Brian Peace at Elmers and said, "I don't know what to do. What is the absolute best price you could give the township if we were to go ahead and pour a foundation for the new basketball court?" This is what everybody wanted to do in the first place. We just didn't have the money to do it. He came back with an incredibly generous offer. The price he gave us to pour this new court, a 50 by 50 pad, between the existing tennis courts and the volleyball courts, was under \$9,000. That includes the striping and the installation of the new hoops. He wrote us a note: "I wanted to reach out and explain my position on the number I provided today for the additional potential basketball court at Bowers Harbor Park. My price was meant to be a statement on how we are willing to give back to our community and help better our parks that we all enjoy. The number could easily be closer to \$20,000 (just for the cement) had it been a stand-alone job. We look forward to working with you all very soon." We are incredibly grateful. Our supervisor has the ability to approve projects under \$10,000. We are going to go ahead with this. We are going to have the pickleball courts. We are going to have a new tennis court top poured and stripe that. And we will have basketball. Elmers expects to come out next week and do the work. Thank you, Elmers, thank you, Brian Peace, and thank you, Mike Query [township resident and sales manager for Spalding].

Board discussion

Chown: we are planning a ribbon-cutting ceremony at Bowers Harbor Park in July. We will have so much to celebrate. I think the date is July 22. We're going to talk about that tomorrow night at the parks committee meeting and plan the party. We would really like to see people come out and celebrate. It's been a long time coming to have these kinds of improvements at this park. I want to recognize Michelle Zebell on the parks committee. She worked tirelessly all weekend coordinating and then physically moving wood chips and getting a new playground ready for use. Thank you.

Wunsch: we're also applying for an MDARD Rural Resilience Grant...

Chown: ...to create a non-motorized transportation plan for Peninsula Township. This

effort was born out of the 2019 survey, which was part of the process of updating our master plan. It showed that 80 percent of residents want to see safer roads for everybody: farmers, bikers, walkers, drivers. They want to see a non-motorized plan out here and safer roads altogether. This is a grant that would allow the township to hire a consultant to come out and create the plan.

Wunsch: we've had a non-motorized committee working on this project since 2020 or 2021. Before I became township supervisor, I participated in those meetings, and we were meeting during the pandemic outdoors. It's been a long time in the works.

Chown: the application is being submitted tomorrow.

Wunsch: Susie Shipman put it all together.

Chown: once the initial letter of intent is submitted, then we find out if we're invited to create and submit the entire application. The final decision is made in September.

11. Adjournment

Chown moved to adjourn with a second by Sanger.

Motion approved by consensus

Adjourned at 8:28 p.m.