

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

www.peninsulatownship.com

Township Board Regular Meeting Minutes

June 8, 2021, 7:00 p.m.

Township Hall

1. **Call to Order** by Supervisor Manigold at 7:00 p.m.
2. **Pledge**
3. **Roll Call:** Achorn, Wunsch, Sanger, Wahl, Manigold, and Chown

Absent: Bickle

Also present: Township Attorney Greg Meihn

4. **Brief Citizen Comments (for agenda items only):**

David Taft, 912 Nehtawanta Rd.: complimented township board members on the job they are doing. These are tough jobs with a steep learning curve, and navigating the issues within the township is challenging. There are several new employees, and in general they are also doing a good job. Many township residents stand behind the township's position regarding the WOMP lawsuit. Sadly, the supervisor gets attacked by the opposition and Next Door and by opinions in the Old Mission Gazette. Maybe lobbyists in Washington operate differently than in the beltline, but they shouldn't operate that way here. We should be discussing this case on its merits and legal questions and not its emotions. Many want to maintain the quiet ambiance of this peninsula instead of having event centers, traffic, weddings, and longer hours of business. As we all know, the wineries agreed to the rules in their SUPs (special use permits) in order to be allowed to convert some of their agricultural land to commercial use so they could operate wineries. [Taft] disagrees with the suggestion that the peninsula needs to be open like Leelanau County, where the geography is very different and there are many roads. Noted that many of the issues Peninsula Township is grappling with are present in Leelanau County, like event centers and traffic. Suggested that if the opposition is so enamored with Leelanau County, it might consider moving there. Reiterated that the board and staff are doing a great job and urged them to keep it up. Many residents realize the board and staff work long hours for little compensation.

Manigold: explained the format for public comment. The first portion of public comment is for business agenda items and the second portion is for items that are not on the agenda. People can make statements under the second portion of public comment if the topic doesn't pertain to the agenda items.

Louis Santucci, 12602 Center Rd.: requested that consent agenda item 4, minutes from the May 12, 2021, special board meeting, be removed and discussed under business. Had asked to have four items added to the agenda. Sent the information to the clerk on Friday, when the office is closed. Received an email from the clerk today at four o'clock that he did not get the agenda items in on time to be on the agenda for this meeting. The clerk stated that his agenda items could not be added to the agenda as they were not received by Wednesday at noon. [Santucci] questioned the procedure and asked where it says that documents need to be received by a certain date and time to be added to the agenda.

Manigold: this has always been the policy. We agreed that this information belonged under citizen comments and that you will be allowed three minutes per question. We have prepared responses to the comments you submitted to the clerk.

5. Approve Agenda

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

Passed Unan

6. Conflict of Interest: none

7. Consent Agenda: any member of the board, staff, or the public may ask that any item on the consent agenda be removed and placed elsewhere on the agenda for full discussion

1. Invoices (recommend approval) (to come in packet addition on Monday)
2. Reports
 - A. Grand Traverse Sheriff's Office Citation, Accident & Arrest Statistics for April and May 2021
 - B. Peninsula Township Fire Department Report for May 2021
 - C. Treasurer's Office Cash Summary by Fund for May 2021
 - D. Ordinance Officer Report for May 2021 (to come in packet addition on Monday)
3. Minutes from May 11, 2021, township board special meeting; May 11, 2021 township board regular meeting; ~~May 12, 2021 township board special meeting~~; and May 19, 2021, township board special meeting (recommend approval)
4. Request from Mission Point Lighthouse Manager Ginger Schultz to hold a lighthouse celebration at Lighthouse Park on Saturday, August 7, from 10:00 a.m.–5:00 p.m.
5. Correspondence
 - A. Don Atkinson
 - B. Monnie Peters
 - C. Jason McCalib
 - D. Jack Knol
 - E. Jay Saksewski
 - F. John Jacobs
 - G. Fire Chief Fred Gilstorff
 - H. Barbara and Michael Yankee

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

Roll call:

Passed Unan

8. Business:

1. Kelley Investment Properties DDR proposed amended language (Manigold)

Manigold: along with purchase of development rights, the township adopted a donation of development rights program whereby taxpayers receive a tax break for donating the development rights of land.

Mr. Sanger is the only other participant in this program along with the Kelleys. Paula Kelley has requested that additional restrictions be placed on the properties she owns. Attorney Meihn has reviewed the information and approves the language. This is not taking anything away from the existing easements; rather, it adds additional restrictions.

Moved by Wunsch to approve the amended language for these DDR properties, seconded by Wahl.

Roll call:

Passed Unan

2. Update from Peninsula Township Parks Committee (Murphy)

Dave Murphy, 6943 East Shore Rd.: thanked the board for appointing Armen Shanafelt to the parks committee. The LIAA contract was approved. Looking to have LIAA help determine the long- and short-term goals, budgeting, and funding for the parks. The first meeting between LIAA and the parks committee is to be held as a work session on June 9, 2021, at 3:00 p.m. Conversations still continue on the non-motorized transportation issues. Part of the master plan agenda interfaces with parks and the goal of joining key parcels. Will need to maintain a future off-road trail system and are creating a committee with TART, Cherry Capital Cycling, and Norte to move forward with these efforts.

Said that [Zoning Administrator Christina Deeren] pointed out some zoning issues regarding matters that were on the parks committee's previous agenda. The parks still continue to have issues with respect to dogs and feces being left by users.

3. Legal update on township matters (Meihn)

Meihn: the winery lawsuit continues to move forward. The parties are engaged in summary judgment at this time. Are moving forward on the preemption issue. The judge will make a determination on the constitutional issues. The response motion has been filed and also a summary judgement on behalf of the township. The judge may intervene before this happens. The township has issued citations on a property where a company was logging and the sheriff's department was called out; this matter has been resolved with the company paying the citations on the complaints. Neighbors had called in the complaints and are happy it's settled. Held a hearing on the Santucci matter; [Santucci] he did not feel he was required to obtain a land use permit from the township because of the agricultural nature of his new building. Judge Powers agreed with the township that a land use permit was required. Fines have been paid. Said the township is in good standing at this point in time.

9. Citizen Comments:

Louis Santucci, 12602 Center Rd.: first issue involves Dave Sanger and a conflict of interest both as a board member and a code enforcement officer. Are two conflicts at play. One is a conflict of interest that creates the appearance of impropriety and the other is a violation of the Michigan Incompatible Public Offices Act. Adopted in 1978, it prohibits a public officer and public employee from holding two or more incompatible offices at the same time. Does this board believe that one of their co-members can serve in both capacities? What happens if there is a complaint against him in his capacity as a zoning enforcement officer as he is a fellow board member? What about voting on zoning issues that he will be later found to enforce? Believes Sanger should recuse himself from voting on every zoning issue that comes before the board. If he doesn't and there's a close vote and his is the deciding vote, does this put the township in jeopardy of another lawsuit?

Meihn: Thanked Mr. Santucci for addressing this issue. Looked into it some time ago and came to the conclusion that there is not and has not been any incompatibility as an enforcement officer as he works through, for, and at the direction of the zoning administrator rather than the board. Secondly, the enforcement of violations and fines do not and never have come before the board. They are resolved with the zoning administrator or the courts. Meihn agrees that there could be a time where Sanger could be involved in a decision that requires enforcement of that decision. Meihn watches carefully, and if a conflict

arises, Sanger would be required to recuse himself. In the three years Meihn has been on the board, this scenario has occurred within the planning commission and the zoning board of appeals. Meihn will not allow this to occur on the township board. Does not see the conflict now or when he was initially asked to investigate.

Santucci: the next issue is the meeting of May 12 where Mark Nadolski asked about the lawsuit and Mr. Meihn replied that he did not want to respond in an open meeting and that he would write Mr. Nadolski a letter. [Santucci] asked if he or anyone else could get a copy of this letter or the substance of any response. Since PTP is not in the lawsuit, is Mr. Meihn violating the terms of the lawsuit? Is PTP privy to information the rest of the public is not privy to?

Meihn: the purpose of the comment was to direct the resident to his attorney for the answer. There was no letter written or document created; it was not appropriate to have a conversation at the meeting and any information could be obtained through his attorney. PTP is part of the lawsuit and is notified of the happenings. PTP knows nothing more than anyone else. Is willing to provide copies of the pleadings to anyone who wishes to obtain them.

Santucci: that did not come through in that meeting so a correction should be made to the minutes. The next issue is the motorcycle signage. Dave Sanger cruised around Terri McDermott's house for some period of time and then arrived hours later with Christina and a sheriff's deputy to serve a letter alleging three violations. Is not sure if she stated that the violations needed to be corrected or not. But the violation of flags in the right of way was immediately corrected. The other two violations were given a seven-day notice to cure, which is an indication that care needs to be taken before anyone jumps to conclusions. The zoning people are not dealing with violent criminals or terrorists but with fellow residents, so why the need to be accompanied by armed law enforcement officers? Are there any protocols regarding when it is necessary to serve a notice rather than send a letter or make a phone call? Are there any protocols regarding when a member of law enforcement serves a zoning violation? Who makes the determination to involve law enforcement? If there are no protocols, will you write and develop them?

Manigold: [started the PowerPoint presentation; a hard copy of this presentation is included at the end of the minutes.] As you know, on the peninsula, you do not see billboards. We have a very strong sign ordinance that we credit to Mrs. Wilson on Wilson Rd.; she fought to eliminate signs even before the zoning ordinance was in place. We have one of the strictest sign ordinances in the county. We only allow one real estate sign per property; we worked with the board of realtors to come up with the ordinance language. Thursday morning, [Manigold] received the first call from a lady adjacent to the property concerned about dangerous traffic. Came into the office to find out Dave [Sanger] had also observed it. The lady who made the complaint had three concerns: the advertisement of the demonstration motorcycle rides at the McDermotts, the teenagers hanging out at the overlook, and the Bowers Harbor boat launch. She stated that she had tried to contact the deputy but was unable to reach him, so [Manigold], Dave, and Christina looked into what was going on. The event was advertised in the *Northern Express*. The township would not have allowed it, as many similar events have been turned down in the past on the peninsula.

This slide shows that the guy is happy to come up from BMW in Grand Rapids and demonstrate motorcycles. Some of these bikes had sale prices on them. The next slide shows the letter that was delivered with the officer. Our officer was not on duty so a call was placed to the non-emergency number for assistance. We have an agreement with the Grand Traverse County Sheriff's Department that has been in place for many years. This agreement allows us to obtain assistance as needed on calls.

Christina wrote the statement with our attorney's approval. Our people had to wait for the officer in the scenic turnout for approximately two hours as he was called out on an emergency. When the deputy arrived, he delivered the letter to Mrs. McDermott.

Deeren: clarified that the letter was delivered to Edward, not Terri, McDermott.

Manigold: Then Mrs. McDermott came out and it was explained that they were in violation of the sign ordinance. There is a detailed description of the violations in the letter. Sanger provided a detailed narrative of what happened on site. Our people stood down until the deputy arrived and the owners were presented with the violation notice letter, which states they were to come into compliance within seven days. This is our standard operating procedure for now. After seven days, if the people don't come into compliance, the matter goes to the board for discussion on how to move forward.

Mrs. McDermott asked the deputy if he wanted to see the camper and he declined. Christina was asked to see the camper and she did so. McDermott asked who Dave Sanger was. In the report the next day, Dave went by the property and everything was removed. They were back in compliance, which is what we hope for rather than taking people to court.

Whenever we get into a situation where we don't know what is occurring, we call for support. We are not going to send Christina in alone. Ninety-five percent of the complaints we receive are from one neighbor calling on another. We are not out monitoring for issues, but we do address matters within the road right-of-way and follow up on complaints. Whenever we send the zoning administrator out to a property that may be contentious, we ask Deputy France to assist.

Santucci: suggested a citizen committee be created and new policies adopted. Read out loud the following statement by Supervisor Manigold: "The township trustees' job is to serve the residents, and we are doing our best to fulfill this mandate." Agreed that these are great words. Feels PTP gets more access to information than the general public regarding the winery lawsuit. Finds it ironic that the township wants to work with a group that stated the township is incapable or incompetent. Requests that any time the township communicates with this group or any other special interest group that it's made public.

Meihn: the only insight they get over anyone else is that they are on file with the federal court so they receive notice and get everything the township gets. Suggested Santucci file a petition on behalf of his organization so it too can receive information.

Ray Weigel, 19135 Whispering Trail: asked if the township has insurance and is insured for the lawsuit.

Meihn: Yes, through Trident and Tokio Marine. If we win, we will go after the plaintiffs to the full extent of the law, and if we lose, all the costs and expenses other than the deductible will be covered.

Bill Nixon, 14408 Peninsula Drive: asked how much money was spent on the 81 lawsuit.

Meihn: we paid to get out of the lawsuit.

Nixon: what other lawsuits has the township lost?

Meihn: no lawsuits have been lost.

Nixon: asked about property that needs to be cleaned up that the township leases from the Grand Traverse Regional Land Conservancy.

Manigold: will look into that.

11. Board Comments:

Manigold: reminded people that we are all residents and the zoning is not perfect. Social media policies should be followed. The Next Door site is not supposed to be a political platform. Chris Reiser flagged some comments on the sight and his posts were deleted. Four people are listed as the guardians to the site. They didn't do their jobs. Violated their own covenant. Will Kleehammer wrote an inflammatory post.

Via PowerPoint, [Manigold] showed the audience the statement by Kleehammer, then asked Christina if she lives in Elk Rapids as asserted in the posting.

Deeren: I do not reside in Elk Rapids and have never resided in Elk Rapids.

Manigold: these statements are damaging and paint people in a false light. Explained that the lemonade stand was busted because the child was almost on the white line within the road right of way and it wasn't safe.

Wunsch: has been following the Next Door site like everyone else. Push is not to change the rules but to simply not enforce the township ordinances that have been adopted and are on the books. Attacking township staff for doing their jobs is inappropriate. It is unreasonable to ask us not to enforce or to be selective in enforcing the rules.

Chown: residents want township staff to be professional, honest, and consistent. We want the same from residents. Civil discourse is valuable and welcome, but we all need to speak and write thoughtfully and honestly. The zoning ordinance is a legal and binding document. If you do not like it, get involved in changing it. Majority of the residents support the township ordinance. Encouraged residents to follow www.participateoldmission.com. This is the place for civil discourse. Answers are vetted and placed on the website. Posts on the Next Door website did not give the full and honest story, the "rest of the story." This is offensive. We on the board are doing better than that. Wants residents to also do better than that.

Manigold: the new ordinance is online. If you don't agree with the wording, please put it in writing to us.

10. Adjournment:

Moved by Wunsch to adjourn, seconded by Sanger.

Passed Unan

Final adjournment: 8:04 p.m.