

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

www.peninsulatownship.com

Township Board Regular Meeting Minutes

Township Hall

June 11, 2019, 7:00 p.m.

1. **Call to Order** by Supervisor Mangiold at 7:00 p.m.
2. **Pledge**
3. **Roll Call: Manigold, Bickle, Achorn, Wahl, Wunsch, Chown, Sanger**
4. **Brief Citizen Comments (for items not on the agenda):**

Jane Boursaw, 15881 Smokey Hollow Rd., questioned the lighthouse to lighthouse race held on the peninsula and whether it had a large event permit.

Deeren: stated that because the race had fewer than 250 participants, it was not required to have a large event permit.

5. **Approve Agenda:**

Manigold: requested that item number four, a legal update from Attorney Meihn, be added to the agenda.

Chown: spoke to the fire chief earlier in the day who requested that item number six be removed from the consent agenda as the individual is no longer interested in applying.

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

Passed Unam

6. **Conflict of Interest:**

Manigold: stated that he has a conflict with business item number three as Manigold Farms is purchasing a portion of the land requested to be split in this land division.

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)
2. Reports
 - A. Ordinance enforcement report for April
 - B. Fire department report for May
 - C. Treasurer's report for May
 - D. Peninsula Township Parks Committee update
3. Requested change in fee schedule for land use permits
4. Requested changes to the land use application
5. Correspondence
 - A. Linda Wagner
 - B. Tim and Julie Peace

- ~~6. Request to add Avery Pucelik as a part-time firefighter to the fire department roster~~
7. Minutes from May 7, 2019, special township board meeting; May 14, 2019, regular township board meeting; and May 16, 2019, special township board meeting
8. Memo on blight committee formation

Nancy Heller, 3901 Blue Water Rd.: requested that consent agenda item number four be removed and added to business.

Achorn: there were a couple of typos in the minutes from the May 14th meeting. Page four should be Rick Schaffer, not Brad, and Marilyn Elliot's name was spelled incorrectly.

Moved by Bickle to approve the consent agenda as amended, seconded by Wunsch.

Roll Call:

Passed Unam

8. Business

1. Motion to approve the terms of the Peninsula Township Planning Commission members as set forth in the planning commission's 2018 Annual Report (Manigold)

Chown: a couple of terms are ending in August of 2019. Todd Oosterhouse and Susie Shipman have submitted emails asking to be reinstated for these positions. One partial position is still available on the planning commission along with a couple of alternate positions available on the ZBA. Todd Oosterhouse and Susie Shipman's positions will be up again in 2022. These terms need to be approved as outlined by the planning commission.

Moved by Wahl to approve the terms as presented, seconded by Bickle.

Passed Unam

2. Close-out documents for Vineyard Ridge development (Manigold)

Meihn: has reviewed the documents and has no modifications or changes. From a legal opinion, stated that the board is in the proper position to approve these today.

Jennifer Hodges, Gourdie-Fraser & Associates: gave a brief overview of the process. Each of the five townships is part of the board of public works, and there is an adopted set of standards for approval of the water sanitary sewer infrastructure for which the DPW provides operations. Section three of these adopted standards provides for close-out procedures conducted by a certified engineer. Gordie-Fraser has provided the plan reviews and full-time inspections. The information has been supplied in the packet. Originals were provided to the supervisor. The letter of guarantee will be effective as of tonight if this development is approved. This letter allows the township to access the guarantee and bond in the event that there are any issues with the infrastructure. Maple Terrace might have been the last of the developments that came before the board.

Moved by Wunsch to approve the close-out documents as presented, seconded by Sanger.

Roll Call:

Passed Unam

3. Bagley land division (Manigold)

Manigold: this is part of the Bagley estate. Mr. Bagley had forty-two acres with a house that was left in trust with Huntington Bank. One of the stipulations of the trust was that all the property had to be sold at the same time. Two interested parties came forward, one for the house and twenty-two acres, and Manigold Farms will be the purchaser for the remaining twenty acres. The (Grand Traverse Regional Land) Conservancy is putting an easement on it because there are no structures. The township board has to vote to approve a land division of an elected official. Even though the sales have not been finalized for the purchase of this land, Mark Naldolski applied for the division. Manigold requested to be removed from this portion of the meeting.

**Moved by Wahl to remove Supervisor Mangiold from the board, seconded by Wunsch.
Passed Unam**

Meihn: the land division has been provided in the packet for your review. This has been reviewed by zoning, planning, assessing, and Meihn himself to ensure that the appropriate processes have been followed and that it is compliant with the land division act. Recommends approval based upon its compliance.

Moved by Wunsch to approve the requested land division, seconded by Sanger.

**Roll Call: Bickle-yes, Achorn-yes, Wunsch-yes, Sanger-yes, Wahl-yes, Chown-yes, Manigold-abstain.
Passed Unam 6-1**

**Moved by Wahl to have Supervisor Manigold return to the board, second by Wunsch.
Passed Unam**

4. Legal update from Attorney Meihn (added to agenda)

Meihn: wanted to bring the board up to date on some legal activities in the past month. Resolving a land division with Oosterhouse and Campbell involved some easement rights and PDR issues. One of the things that was to occur once the land division was approved was that Oosterhouse and Campbell were to install a road to exercise an easement right that would allow Campbell to access his parcel. Without the road as easement, Campbell would not be able to access his property, which would cause this parcel to be landlocked. Those issues were never followed through on and the township was made aware of that by Mr. Edmondson, who made a complaint that the PDR (purchase of development rights agreement) would be violated if these things had occurred but then had his attorney write a letter stating that they were not interested in changing or modifying the process. All this resulted in the board deciding that action needed to be taken to correct this situation.

Mr. Campbell did acknowledge that there was an issue with his access and he tried to resolve this on his own at one time. By then the property was already sold to Mr. Oosterhouse, so it was not possible to achieve. The board acted promptly once this was discovered and the process of how to resolve this matter began. It was discovered after reviewing the documents that the best resolution for this issue was to create an easement across Mr. Santucci's property to allow Mr.

Campbell access to his property. A quick claim deed and other documentation to create that easement were presented in prior meetings. At the same time, the prosecutor who was aware of the issue through a complaint that had been filed with his office asked that a legal opinion be provided on whether the easement going from Mr. Santucci's property to Mr. Campbell's would violate the PDR. Meihn does not feel that this would be a violation to the PDR for several reasons, the easiest being that Mr. Santucci's property is under his own PDR in addition to Mr. Edmondson's being under his own PDR. So the access route and process not only complies with the PDR but also does not impact the PDR, nor does it impact Mr. Oosterhouse's or Mr. Campbell's property. An opinion letter was sent to the prosecutor's office on Monday.

The second issue is the employee handbook. The document is finished and in its second proof and will be presented to the committee.

The third topic is enforcement issues, which go along with the blight ordinance. At the last meeting, a draft ordinance was presented to try to get the community engaged to help correct some of the issues, mostly in the residential areas. Complaints that are received by Mr. Sanger come primarily from the residential areas. Meihn conducted some research to see if there had been any sanctions, tickets, or violations in the agricultural areas and was not able to find any. The purpose is for the community to come up with an ordinance that is better than the junk ordinance. Mr. Sanger in his enforcement receives a number of different complaints. That is why this topic was presented to the board, and it has to be addressed.

Lastly, Meihn is working on a number of different issues on violations that are going on. A report will be provided to the board at a later time.

Bickle: questioned the benefit of someone making a claim with the Grand Traverse County prosecutor's office.

Meihn: cannot answer this but said it's one thing to make a claim based upon what you believe and this is the right of citizens, but it's another thing to have an attorney draft a letter pointing out a potential problem but then state that they are not interested in pursuing anything further with it, rather just wanting you to be aware that if you build a road and if the easement is developed as in land division 190, you may have an issue. This has changed its stripes many times before getting to this point. The good news is that this has helped resolve Mr. Campbell's issue to access his property. We now have a formal document. Explained that the community would have never been impacted as the PDR has always been in place.

Manigold: wanted to add that at the last meeting, with the presentation on the proposed blight ordinance, that through all the enforcement issues throughout the years and the issues that have been before Mr. Sanger, Christina, and himself, that we are looking for a way to help those people who come in annually to get help resolving issues. The board directed Christina to come up with a new ordinance, and that was what was presented at the last meeting.

Meihn: the community showed an incredible interest in trying to devise an ordinance or remove an ordinance that they thought would adversely affect them. People got together to voice their concerns and issues.

Bickle: asked if the Grand Traverse County Junk Ordinance has a stronger precedence over the ordinance that the township has.

Meihn: their ordinance would not supersede the township ordinance but it would be more difficult, more problematic, for the very interests of the people who were here at the last meeting who were trying to advocate against it as it is more restrictive and harmful. The township has tried to make changes for the past two years. People can file a complaint with Grand Traverse County if they wish.

5. Requested changes to the land use application

Deeren: the township has been using the same land use application that has been in place for several years. People seem to have difficulty understanding what needs to be provided when submitting the application. So the application was simplified by requesting information that is useful when completing the permit. This new application follows the permit that is written and given to an applicant.

Nancy Heller, 3901 Blue Water Rd.: approached this as an applicant. Feels the new format is unclear. Is concerned as an applicant off the street that it is missing the details the current application has. Would like to see elements of the old application incorporated into this new application, such as an address being assigned by the equalization department, evidence of ownership, calculations, road right of ways. It is unclear whether the applicant fills out all of this or staff. Also, it didn't state that a full set of construction plans needs to be submitted and had no light fixture details, property boundaries, shoreline properties, include all proposed structures, decks, and overhangs. All of these items are under item number ten of the original document. She would like to see a little guidance as she comes from a constituent background and does not have a lot of experience in filling out the application.

Wahl: attaching the new one and the original one as a fallback was discussed.

Ahorn: attach the old application to the new one so that if you don't understand what you are doing, the second states required materials, which could be added as additional information. Questioned if they are required to vote on the form or if it is part of the zoning administrator's (ZA's) duties to create a form that is necessary for the ZA to do the job.

Meihn: the board is not required to do that but there is a good reason for some of these forms to be approved by the board.

Sanger: the form used today follows the ordinance and gives the applicant a good idea of what is in the ordinance. However, since working with Christina, he realizes that this form does not make it easy to capture the data. It provides a basis for a discussion but there is no place on the form to provide other permit numbers and information, so the form she is proposing is an up-to-date data entry form that enables Christina to work with the applicant to capture the necessary data.

Achorn: suggested that the old form be attached to the new form so that people have the information they need.

Bickle: at the end of the day, the ZA is the one responsible for the thoroughness and exactness.

Deeren: those suggestions can be incorporated into this new application.

Moved by Achorn to approve the preliminary land use application with the discussion points that have come about at this meeting, seconded by Wunsch.

Passed Unam

9. Citizen Comments:

Nancy Heller, 3901 Blue Water Rd.: is trying to educate herself on what a municipality can enforce and the policy it has to enforce and when things go before the prosecutor. She cannot seem to get a straight answer as nobody is that informed overall. Suggests that the steering committee look at the blight and nuisance ordinance or whatever it will be called so that we can find out who is versed in guiding and who can enforce ordinances and what the law enforces.

Meihn: three components need to be present in creating ordinances such as citizens, the board, and attorneys. It is a simple process when all three of these components come together. The statute provided for non-criminal acts along with fines and civil enforcement, which is done at the district court or at the circuit court level depending upon what is requested. If it is money and enforcement, this is done typically at the district court, and if it is injunctive relief so that it does not continue, then it is at the circuit court. It can turn criminal by a civil action if there are continued repeated violations that the court then moves forward with. But it really requires the three parties to be actively involved.

Nancy Heller, 3901 Blue Water Rd.: something has to be done with non-residents' events. Has questions every year over this hundred-mile race and feels that in some way Peninsula Township should have some control. Not looking to permit and permit but also looking for some means of enforcement and control of small events like the hundred-mile race.

Mark Naldolski: is there any reason that you can't have two ordinances, one for residential and one for agricultural? Could be the way to resolve the issues.

10. Board Comments:

Manigold: the park board has been making decisions on a day-to-day basis. For example, the Bower's Harbor Park and one of the Oosterhouse's request was approved by them. Anne Griffiths thinks these things should be approved by the township board, but they should rest on the park board and not the township board. Is looking for consensus and to see if the township board members agree.

Wahl: noted that the ZBA meeting for this month was cancelled and wanted to point out the hard work that Christina has been doing. She did have some criticism from people on the blight ordinance and he thinks she did a great job putting it together in a short time. Even though it was not passed and did not work out, it does not take away from the work that was put into creating it.

Deeren: thank you.

Wunsch: planning commission terms were discussed at the beginning of the meeting. The PC has an annual position for a township board member. He would be open to doing it again if necessary but if someone else was interested in serving for a term, he would not be opposed to stepping down.

Manigold: still seeking people to serve on the planning commission and the zoning board of appeals.

Achorn: received an email from Dave Murphy about some damage at Pelizzari Park from Consumer's Energy. This is the second time this has occurred. Wonders if the board should take any action to correct this bad behavior.

Deeren: was informed that they had gone in and cut approximately ten feet of underbrush to create a path.

Meihn: suggested that the board make a motion for him to engage Consumers in the process to stop them from continuing on or at least get some communication to find out why they are doing what they are doing.

Moved by Achorn to have Attorney Meihn engage Consumer's Energy by correspondence, seconded by Wunsch.

Passed Unan

11. Adjournment:

Moved by Wahl to adjourn, seconded by Sanger.

Adjournment: 7:59 p.m.