

Peninsula Township
Town Board Regular Meeting
September 14, 2021 7:00 p.m.
Lola Jackson Recording Secretary

PENINSULA TOWNSHIP
13235 Center Road, Traverse City MI 49686
www.peninsulatownship.com
Township Board Regular Meeting Minutes
September 14, 2021, 7:00 p.m.
Township Hall

**Masks Are Required for Those Who Are Not Vaccinated; Please Also Keep
Six Feet between Yourself and Others**

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

2. Pledge

3. Roll Call

Present: Sanger, Bickle, Manigold, Chown, Achorn, Wunsch

Absent: Wahl

Also present: Greg Meihn, township attorney, and Christina Deeren, director of zoning

4. Brief Citizen Comments (for agenda items only)

Curt Peterson, 1356 Buchan Rd.: we want to see the current zoning ordinance laid side-by-side with the proposed changes for comparison. Need to extend the public comment period until we have this document and have time to review.

Manigold: The master plan is going to be approved first and then the zoning rewrite. The vote on the zoning ordinance might be in two to three months.

Jim Raphael, 14826 Mallard Dr.: only has time to convey some of his remarks. Urges the township board to pass a Bluff Rd. resolution tonight and would prefer even stronger language. Bluff Road is one of the very few north-south throughway roads on the peninsula. The township spent considerable resources building and manning a third fire station last year for the public good. Bluff Rd. needs to be approached in that same spirit. Unfortunately, the county road commission is not being run for the public good. We are dealing with a management team bent on pursuing their own agenda, which is to spend on big megaprojects and high profile roadwork at the expense of local road maintenance. (A complete copy of his remarks is included at the end of the minutes.)

Jim Carruthers 14114 Bay View: has lived on the peninsula for 30 years. Worked for the Grand Traverse Regional Land Conservancy and with Barbara Wunsch on the PDR program. Is currently the mayor of Traverse City. Is here to provide the Traverse City point of view regarding the traffic at the base of the peninsula. This portion of Traverse City is residential, and the city will do whatever is required to mitigate the traffic congestion at the base. The increase in traffic will add 15-20 minutes in getting on and off the peninsula. We will do whatever is necessary to improve traffic flow in the M37/Garfield interchange and preserve easy access to Bryant Park.

Todd Wilson, 782 Neahawanta Rd.: Read letter in packet, item T.

Chris Taylor, 1042 Neahawanta Rd.: has been coming here most of his adult life and is now a full-time resident and voter. Some members of the wineries have suggested we mimic Leelanau County and allow some wineries to have longer hours and additional events. Leelanau County has 11 townships, and only two of them allow what our wineries request. Peninsula Township has one winery for every 2.8 miles while Leelanau has one winery for every 125 square

Peninsula Township
Town Board Regular Meeting
September 14, 2021 7:00 p.m.
Lola Jackson Recording Secretary

miles. That is 37 times less dense than what we have. The definition of a winery is a place where wine is produced. The winery lawsuit requests being open until 2:00 a.m., liquor licenses, full restaurant and catering services, events such as weddings, no requirements to buy local grapes, outdoor amplified music, and unlimited merchandise sales. These would no longer be wineries but nightclubs. Please do not let the peninsula turn into a strip of nightclubs.

Eric Dreier, 12434 Peninsula Dr.: do not settle this lawsuit. For 27 years this community has supported taxing ourselves through the PDR program, which has secured 8,000 acres to aid in preserving the pastoral feel of the peninsula. The requests of this lawsuit implicitly undermine the intent of PDR. They would unwind our agriculture and turn this area into an entertainment district. In the election of 2000, the wineries sought changes similar to the ones they are asking for now. The public vote repudiated their request by a significant margin. There are individuals who planted grapes with the expectation of being able to sell them to local wineries per the ordinance. Many of the changes WOMP is pursuing are similar to those in Napa Valley, California. However, the topography is decidedly different. Napa is land-locked with numerous roads in and out. We are surrounded by water on two sides and only have two roads off the peninsula. More traffic decreases the enjoyment of full-time residents. I believe a third PDR request will be denied if the program appears to be ineffective in preserving our agricultural lands. I am requesting an informational meeting to be held to explain the full details of this lawsuit and to allow all residents to express their views.

Scott Phillips, 8348 E. Shore Dr.: I vigorously support you; do not give up. The wineries are doing an end run around the township by suing us in federal court. Defend and litigate.

John Kinne, 14743 Shipman Rd.: the township needs to take a stand against the wineries. In 2016 the entire board of the township was voted out. Do not bow to WOMP; continue to fight and listen to the community. We support you. Please do not let the wineries ruin our way of life.

David Taft, 952 Neahawanta: the expansion of the wineries will result in more noise and ruin the rural ambiance of the peninsula. Preserve Old Mission. The federal lawsuit clouds the issue and puts pressure on you. We support you. Get tough on enforcing the current zoning ordinances and appoint a task force of citizens to redraft the winery zoning. The WOMP wineries are currently violating their SUPs. They are selling more out-of-state bottled wine than wine made here. Talk to a wedding photographer in town, and you will see there are already weddings occurring here. Get tough and enforce our current zoning.

Tony Steeno, 8195 Bel Cherrie Dr.: I have lived here for 15 years. I have three young children, and I love the agricultural and pastoral nature of the peninsula. I thought Old Mission wines were like a location that made a certain type of wine, and I have now found out grapes are being purchased from outside this area. I am afraid this increase in activities will fundamentally change the nature of our community.

Raj Asava, 2855 Bowers Harbor Rd.: I have lived here for 45 years. I am totally against the increased noise and traffic. I urge the town board to take a stand. The peninsula now has 13 wineries. The peninsula did not grow in size, but the number of wineries did. They are bringing in grapes from outside. Make sure the public is aware of what is going on.

Philip Wilson, 2570 Phelps Rd.: I have lived here for 15 years. I have supported real, local wine being made here. The activities of the wineries are an assault on the residents of the township. This is an outrageous affront to our local agriculture. I would pay more taxes to stop the expansion of the wineries. Most of the residents are strenuously opposed to the request of the wineries.

Barb Wunsch, 17017 Peninsula Dr.: I am here tonight because I wrote a letter that explains the unequal zoning treatment of the farmers compared to zoning for the wineries. As farmers, we are looking for equal treatment and

Peninsula Township
Town Board Regular Meeting
September 14, 2021 7:00 p.m.
Lola Jackson Recording Secretary

simple fairness. Currently, this is an uneven playing field and agricultural land has been scooped up by the wineries.

Dave McClary, 14835 Mallard: I live in Mission Hills and am happy with the resolution being passed tonight regarding Bluff Rd. and the road commission. When it rains, the road is undermined. We have tried to meet with the attorney and have been met with stonewalling and delays. I also support you in defeating the WOMP lawsuit, as this is a large overstep.

Deb Larimer, 3802 Blue Rd.: hold strong against the wineries. There will be more traffic from their proposed wedding events. They assume I am okay with loud noise and increased alcohol consumption. I voted for PDR. Our visionary master plan needs to be enforced. The actions of the wineries show narrowmindedness, shortsightedness, and greed as well as little respect for the people who call Old Mission home. As a neighbor, I feel betrayed. As a neighbor, I have patronized their businesses, been patient with the additional traffic their wineries have brought to this area, have encouraged visitors to my home to visit the wineries, and have put up with the need to spray pesticides and herbicides. With this lawsuit, the winery owners have made it clear I do not exist. They have assumed I will be okay with the loud music, weddings, and vehicle noise until 2:00 a.m. Do not give in. This is a unique place with majestic open spaces. Who we are and what we want for the future is at stake. Thank you for your efforts and hard work.

Robin Dailey, 13958 Bay View Ave.: I support you against WOMP. As a fourth-generation farmer, I am terrified of what will happen to our beautiful, peaceful peninsula. What is the environmental impact? I was out kayaking recently and there were beer cans in the lake. This will increase the noise and traffic. Each of these wineries agreed to the zoning ordinances when they started.

Leah Stearns, 1290 Neahawanta Rd.: as a century old farmer, I have trusted the peninsula zoning ordinances. Hang on to what is here. Do not disregard those who came before the wineries.

Penny Rosi, 2711 Old Mission Rd.: we grow Riesling grapes and have taken out apple trees to plant more grapes. We sell our grapes to Left Foot Charley, who buy grapes to make and sell wine in town. There are other ways of handling the sale of grapes.

T. J. Andrews: I am the attorney representing Protect the Peninsula, which has worked for decades to preserve the nature of this area. We would like an update on what occurs in the closed session. This is in the public interest. We would like as much information as possible to be discussed in open session. The citizens want to know the procedural aspects of this case. There needs to be a public explanation of the legal process and how citizens can participate.

Ann Arouca, 850 Neahawanta Rd.: I support the group that is opposed to WOMP. With PDR, citizens voted to preserve agriculture lands and the rural aspects of the peninsula. It does not make sense that the township would now turn around and support the noisy wineries. One of the purposes of PDR was to forestall high-cost infrastructure due to undercapitalized housing developments. The wineries will make more money but the public will not benefit. The wineries knew the rules when they started. There is no reason to destroy the tranquility and peace here.

John Wunsch, 17881 Center Rd.: the public needs more information. Why did the negotiations end with the wineries? What do we need to know? Are the wineries following the rules? What are the wineries going to get if they win the lawsuit? With PDR, we taxed ourselves to pay for open land. There is a lot to be learned from the township board. There is a line that cannot be crossed by the wineries. Ecotourism is not a bad thing, and we set it up to be balanced. The support from the community was felt at the ballot box in 2000. When the wineries have restaurants, weddings, and the ability to sell grapes elsewhere, you have decoupled wineries from agriculture. Township board, we support you.

Peninsula Township
Town Board Regular Meeting
September 14, 2021 7:00 p.m.
Lola Jackson Recording Secretary

Michelle Zebell, 2616 Bowers Harbor Rd.: thank you for your diligence and service. Continue fighting for PDR, planning, and our residents. It would be sad to give that all up to transient visitors who come for a weekend or a day. We treasure our farmers and daily way of life here.

Annika Lorentz, 3297 Cherry Hill Rd.: I am here representing a farmer who signed Barbara Wunsch's letter. I was born and raised on the peninsula and represent the next generation of farmers. I would like to see a level playing field in the zoning ordinance, as right now there are a lot of discrepancies regarding what each group can do.

Kimberly Strong, Seven Hills Rd.: I loved coming out to the peninsula to decompress before actually moving here. I have lived here now as a resident for eight years. I live near a winery. After 10:00 p.m., the noise ordinance should be enforced. I hear loud drinking voices and other loud noise from music. I need quiet time at home after work. If I need to work an extra shift or my husband needs to, we need quiet time to rest and get a good night's sleep. What the wineries are asking for is overreach. They need to abide by the contracts they signed. The residents have rights and needs as well. I was going into town in the afternoon and a car was ahead of me going 40 in a 55 mph zone and swerving all over the road. It then turned into a winery when it appears the driver was already drunk. This expansion will add more drunk drivers and parties. We are more at risk with more accidents and drunk driving. We will need more policing. The residents will pay for it, and there will be increased liability. Please consider the rights of the residents. Please do not let this happen to this peninsula. Thank you.

Mark Nadolski, McKinley Rd.: I am president of Protect the Peninsula, an organization that for 40 years has worked to protect the rights of the residents of the peninsula. I want to thank the people who showed up tonight, and I know there are more people who wanted to be here.

Jon Jacobs, 5290 Forrest Ave.: there is not much left to say that has not already been said. We have a great board. I have sat through numerous meetings with you and have been impressed every time. You are good, thoughtful, and careful and you are very much appreciated. Please do not let legacy of this board come to be the destruction of this wonderful place. We are with you, and the citizens of this town support you.

5. Approve Agenda

Wunsch moved to approve the agenda, seconded by Achorn

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)

2. Reports

A. Grand Traverse County Sheriff Daily Officer Summary for July 2021

B. Grand Traverse Sheriff's Office Citation, Accident & Arrest Statistics for July and August 2021

C. Peninsula Township Fire Department for August 2021

D. Cash summary by fund for Peninsula Township for August 2021

E. Peninsula Community Library for September 2021

F. Peninsula Township Ordinance Enforcement Officer for August 2021

G. Mission Point Lighthouse for September 2021

3. Minutes from July 29, August 3, and August 9, 2021, township board special meetings and August 10, 2021, township board regular meeting

4. Public Notice regarding Permit No. GW1010385, Chateau Chantal

5. Letter from Fire Chief Fred Gilstorff regarding electrical power lines or wiring within homes

Peninsula Township
Town Board Regular Meeting
September 14, 2021 7:00 p.m.
Lola Jackson Recording Secretary

6. Appoint Al Couture as an alternate to the zoning board of appeals for a three-year term
7. Accept bid from Parshall to remove dangerous trees at Old Mission State Park
8. Correspondence
 - A. Connie Sargent
 - B. Doug Deyoung
 - C. Whitney Gillies
 - D. Dave Murphy
 - E. Lesli Humphrey
 - F. Bethany Goodman
 - G. John Hyslop
 - H. Bill Hyslop
 - I. David McClary and Brad Kluczynski
 - J. Joe Gorka
 - K. Kasey Mahony
 - L. Brian Hammer, Greg Meihn, and Jennifer Hodges
 - M. Andy Smits
 - N. Laura Johnson
 - O. David McClary
 - P. Jennifer Hodges and Jay Saksewski
 - Q. Barb Wunsch and 19 additional Peninsula Township farmers
 - R. **Grant Parsons**
 - S. **Connie Archer Sargent**
 - T. **Todd Wilson**
 - U. **Marry U. Manner**
 - V. **Nancy R. Heller**
 - W. **Bud Stych**
 - X. **W. William Rudolph**
 - Y. **Jim and Judy Hall**
 - Z. **Louis Santucci**
 - Aa. **Erin and Patrick Gartland**
 - Bb. **Robert and Mary Alice Treadway**
 - Cc. **Emily Gest**

Chown asked to have four additional letters added to the consent agenda, all dealing with the winery lawsuit (these appear at the end of the minutes).

Wunsch moved to approve the consent agenda with a second by Bickle.

Roll call vote: Yes – Wunsch, Bickle, Chown, Manigold, Achorn, Sanger

Passed Unan

8. Business:

1. Third of three public hearings on Peninsula Township Zoning Ordinance rewrite (Manigold) (no action will be taken; visit www.peninsulatownship.com to see draft)

Manigold opened the public portion of the meeting for comments.

Lou Seibold, 3195 Cherry Hill Rd.: I want to discuss sections 6.1.2 and 6.1.3. of the zoning ordinance under general horticulture. I own a farm, and we do all of the work ourselves. We grow cherries, blueberries, and flowers and are involved in what is called general agriculture. I have no issue with the wineries; they do what they do under the law. I do have a question under general management of agriculture. There is no mention of structures. There are more people using what is called atmosphere-controlled agriculture as a way of extending the growing season, so there are many different forms of structures that need to be address under 6.1.3. There are greenhouses used for retail

Peninsula Township
Town Board Regular Meeting
September 14, 2021 7:00 p.m.
Lola Jackson Recording Secretary

but no mention of greenhouses used for farming. There are hoop houses, high and low tunnels, or net farming to make flowers grow up straight. When do I need to come to the township to get a permit from the township? If there is a frost coming I could quickly put up a high tunnel. Do I need to get a permit? Right now there is too much administrative discretion in the code. I recommend using the Michigan Right-to-Farm Act and the Good Agricultural Practices and Standards as our guide.

Monnie Peters, 1425 Neahawanta Rd.: I have attended around 70 meetings working on this document. This is a good product and easy to amend. Pass it now.

Bickle moved to table the discussion until the regularly scheduled next township board meeting seconded by Wunsch.

- Roll call vote: Yes – Wunsch, Bickle, Chown, Manigold, Achorn, Sanger** Passed Unan
2. Increase deputy coverage and enforcement (Manigold)
- The board discussed the need for seven-day-a-week coverage by the sheriff's department. The township has a \$300,000 surplus in the general fund to pay the \$86,000 per-year contract.
- Bickle moved to hire a second deputy for seven-day-a-week coverage, including some evenings, with a second by Wunsch.**
- Bickle amended his motion to approve a contract for two years to have a second deputy for seven-day-a-week coverage, including some evenings, seconded by Wunsch.**

- Roll call vote: Yes – Wunsch, Bickle, Chown, Manigold, Achorn, Sanger** Passed Unan
3. Update on work between LIAA and the Peninsula Township Parks Committee (Cowall)
- Matt Cowell, 117 Homestead Ct.: LIAA is conducting a parks funding study along with the parks committee. We have been doing some backgrounding on the amount of acres, inventory, and usage of the parks as well as desired capital projects such as the boat launch at Kelley Park or playground at Bowers Harbor. We are coming up with a lack of capacity both in terms of dollars and human capacity. You have 800 acres in parklands, which is a tremendous amount of land compared to the resident population. Michigan supports parks and grants are readily available, but someone has to write the grants, execute the projects, and provide money for maintenance. I would not recommend anyone rely on soft money (i.e., grant money) for maintenance. There is a disconnect between the size of parkland, population, and the increased usage parks are seeing all over this region. We suggest a joint meeting of the parks committee and the town board be held in November to come up with a realistic parks funding plan. Money can come from the general fund, millage from the citizens, and soft dollars, such as grants.

4. Update from Peninsula Township Parks Committee (Skurski)
- Skurski: similar methodologies can be used in blending the historic buildings, parks, and lighthouse discussions. Need \$4,000 for new fence materials at Pelizzari with volunteer installation. Also need \$4,000 and engineering support to repair the pickleball courts. The Michigan Department of Engineering (MDOT) will remove the large damaged tree and all the invasive species along the Pelizzari fence along Center Rd. The baseball field is unusable due to lumpy grass, and some action needs to be taken if there is to be Little League in the spring. Interest in a dog park is high.

Wunsch moved to fund \$4,000 for the fence at Pelizzari and \$4,000 for repair of the pickleball courts with a second by Bickle.

- Roll call vote: Yes – Wunsch, Bickle, Chown, Manigold, Achorn, Sanger** Passed Unan
5. Resolution request from residents on Bluff Road to the Grand Traverse County Road Commission (Manigold)
Chown read resolution aloud; resolution may be found in the packet.
- Wunsch moved to approve the resolution with a second by Bickle.**
- Roll call vote: Yes – Wunsch, Bickle, Chown, Manigold, Achorn, Sanger** Passed Unan
6. L-4029 annual millage rate for winter 2021–2022 taxes (Bickle)

Peninsula Township
Town Board Regular Meeting
September 14, 2021 7:00 p.m.
Lola Jackson Recording Secretary

Bickle moved to approve the 2021-2022 winter millage L-4029 as presented with a second by Sanger.

Roll call vote: Yes – Wunsch, Bickle, Chown, Manigold, Achorn, Sanger Passed Unan

7. Department of Public Works (DPW) sewer and water rate adjustment (Bickle)

Bickle moved to accept DPW & Utility Financial Solutions, LLC Wastewater Cost of Services and Rate Design report dated September 8, 2021, as outlined and concluded on page 11 with an immediate price adjustment taking effect October 1, 2021, and to accept the proposed rate increase table for the period of 2022 till 2026, seconded by Wunsch.

Roll call vote: Yes – Bickle, Wunsch, Achorn, Chown, Manigold, Sanger Passed Unan

Bickle moved to accept DPW & Utility Financial Solutions, LLC. Water Cost of Services and Rate Design report dated September 8, 2021 as outlined and concluded on page 12 with an immediate price adjustment taking effect October 1, 2021, and to accept the proposed rate increase table for the period of 2022 till 2026, seconded by Wunsch.

Roll call vote: Yes – Bickle, Wunsch, Achorn, Chown, Manigold, Sanger Passed Unan

8. Presentation regarding enforcement issues against Oosterhouse Vineyards and David Smith and Cynthia Robertson (Zoning Director Christina Deeren) **as well as Larry and Cassie Sidebotham, Harold D. Edmondson, and Kroupa Enterprises LLC**

Meihn: there is no presentation. The enforcement violations currently active are those listed in item 8.

9. Presentation on issuing permits (Attorney Meihn and Deeren)

Deeren: issued 17 land use permits in August and five so far in September. Year to date, there have been 163 land use permits, with 17 of those after-the-fact permits issued with a penalty. Storm water permits total 27. This results in \$39,200 to date.

10. Update on COVID-19 practices and employee handbook (Meihn)

Meihn: the Covid-19 recommendations are continually changing. Currently, unvaccinated individuals need to wear a mask indoors, and it is highly suggested that vaccinated people wear a mask during large indoor gatherings. The Biden administration has mandated all federal employees, federal government contractors, and people in organizations receiving federal monies to be vaccinated. This also applies to employers with more than 100 people. This can be accomplished through interstate commerce laws and OSHA. All constitutional arguments against mask wearing have failed. If we are expecting a meeting this large at the next town board meeting, the venue needs to be larger to allow more social distancing.

11. Update on township litigation matters; possible closed session per MCL 15.268(e) to discuss the winery lawsuit and return to open session per MCL 15.261 (Meihn)

Meihn: the damage to the Archie Park fence has been settled, with \$4,500 going to the township as well as the \$500 attorney fee. The Bluff Rd. issue has been going on for more than a year and a half. As a governmental entity, we need to be careful not to become involved in a political matter. The monthly update on the WOMP lawsuit remains the same, and the court has made no ruling on the motion for summary judgement. This is where the wineries are asking that the zoning ordinance be superseded by the Michigan Liquor Control Act. We have filed a motion to have the judge rule in our favor with a summary judgement. Neither I nor the plaintiffs' attorneys know why it is taking the western district so long to issue a ruling. They are historically one of the most prompt districts in the state of Michigan; cases have built up due to Covid. Protect the Peninsula (PTP) has filed to intervene in the suit as well, and the judge has not ruled on this yet. This prohibits PTP from participating in the discussions and having access to internal court documents. You can get on the Michigan Western District Court website and see the motions that have been filed, the briefs, and the arguments to date. I can provide public documents to those who contact me. I am recommending the board set up a public meeting at St. Joseph Catholic Church to go over the existing public documents. After five meetings with the mediator, the two parties have come up with a proposal for the town board tonight.

Peninsula Township
Town Board Regular Meeting
September 14, 2021 7:00 p.m.
Lola Jackson Recording Secretary

Manigold moved to go into closed session per MCL 15.268(e) to discuss the winery lawsuit and return to open session per MCL 15.261, seconded by Chown.

Roll call vote: Yes – Sanger, Achorn, Wunsch, Bickle, Chown, Manigold Passed Unanimously

Board entered closed session at 9:45 p.m.

Manigold moved to go back into open session per MCL 15.261 with a second by Bickle.

Roll call vote: Yes – Wunsch, Bickle, Chown, Manigold, Achorn, Sanger **Passed Unan**

Meeting returned to open session at 10:25 p.m.

Bickle moved to schedule a closed session meeting on the proposal brought by the negotiation committee to discuss the terms and conditions of the settlement proposal; the proposal requires the input of the full board, and with trustee Wahl absent and board members unable to fully review the proposal handed to them today, a short delay is necessary, seconded by Wunsch.

Roll call vote: Yes – Wunsch, Bickle, Chown, Manigold, Achorn, Sanger Passed Unan.

Chown moved to schedule a meeting within the next few weeks at a sufficiently large local venue to allow full public participation to learn about and speak on the allegations leveled in the complaint, seconded by Bickle.

Roll call vote: Yes – Wunsch, Bickle, Chown, Manigold, Achorn, Sanger **Passed Unan**

9. Citizen Comments: none

10. Board Comments: none

11. Adjournment:

Sanger moved to adjourn the meeting with a second by Chown.

Roll call vote: Yes – Sanger, Achorn, Wunsch, Bickle, Chown, Manigold **Passed Unan.**

Adjourned at 10:28 p.m.