

# PENINSULA TOWNSHIP

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MI 49686

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## Township Board Special Meeting

November 1, 2022, 7:00 p.m.

### Township Hall

### Minutes

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

2. **Pledge**

3. **Roll Call**

Present: Wunsch, Achorn, Wahl, Sanger, Shanafelt, Chown

Absent: Rudolph

4. **Citizen Comments**

**Sean Mugerian:** I'm the other community police officer here at Peninsula Township. I've been a sheriff's deputy in Grand Traverse County for six years. For five of those years, I resided in Garfield Township. I've been here since January. I want to go over some stats and some rumors. I've compiled some trend statistics. Since January 1 to July 13, I've worked 91 days. These are just my stats. In those 91 working days, I stopped 129 cars and issued 55 citations. 77% of the cars I stopped were residents of Traverse City or Old Mission Peninsula. A lot of times I get calls about the tourists causing all the problems, all the speeding, but statistics don't lie: 77% are the locals. A lot of those people just kind of need to look at themselves in the mirror. I personally have responded to more than 700 calls of service. Some of these are for non-criminal offenses – civil situations, traffic crashes, natural deaths, and residential and commercial alarms. The criminal complaints I've dealt with since being here include assaults, domestic violence situations, larcenies, driving while intoxicated, driving under the influence of drugs, fraud, child abuse, elder abuse, malicious destruction of property, home invasions, suicide, suicide attempts, traffic violations, and extortion. The list goes on and on. We're blessed to be in Old Mission where the crime rate is definitely lower than in other parts of Grand Traverse, but we're not immune. I was told not to look at Facebook or the Next Door app. Unfortunately, I have been. A lot of people post on there and say, "We see our cops always at the township office, always at a park somewhere just sitting." I want you to know we're doing reports. We're trying to get caught up. We're not texting; we're not watching movies. We're just sitting in a quiet area knocking out some of the reports I just mentioned. The other thing is, the department asked me to address the horrible crash yesterday morning involving a bicyclist. There's a lot of rumors circulating about the causes of this crash. There's a lot of false information going around. Obviously, a lot of concerns deal with speed. I promise we're doing our best between calls to try to catch as many speeders as we can, but we

can't be out here 24/7 catching speeders all the time. We have calls of service. We have reports. We've lost 13 police officers in Grand Traverse County since March. That includes our entire traffic enforcement unit. We used to have guys just out there writing tickets, but they're gone. We're doing our best, but we can't be everywhere at once. But back to the accident yesterday. A lot of rumors are circulating, claiming it was speed related. It was not. The driver was obeying all traffic laws and was not speeding whatsoever. I can't give more information because we're still investigating, but I wanted to squash those rumors because there is a lady out here who feels responsible for the crash. From our understanding right now, she is not at fault. There's a lot of people giving her grief online and she's obviously going through the hardest moments of her life, but speed was not a factor in this crash. If you guys have any questions, I'm totally transparent about what I do, why I do things, why I'm sitting in the parking lot somewhere. Just give me a call.

**Audience question:** why did you lose 13 officers?

**Mugerian:** I think it's just the world we're in right now. Law enforcement isn't a glamour job. A lot of agencies pay more, and there's a lot of people who want out. The pay is not as competitive. A lot of people felt it was time to get out. I'm staying though. I want everyone to know I'm staying. If you have any further questions, give me a call.

**John Wunsch, 17881 Center Road:** I have a few comments on farm processing. There are some good things here. As I've said before, I greatly regret that our previous system had to be dismantled, but I get the reality. I was very pleased to see a clear statement that these changes will not supersede any conservation easements. In some areas, I'm disappointed. There apparently was not a taking up of Lew Seibold's suggestion to double the width to 660. I thought that was a good suggestion. I also expected in the 65% parcel use in 19B3ii that there would be a caveat for wetland and forests, and I don't see that. I want to caution regarding the viewsheds. I was in the group that created the viewsheds. That map is more than 30 years old. If you're going to exclude wineries from viewsheds, it really must be updated. Many of those huge swaths are no longer visible due to tree growth. Some of them have low areas that could have something that would not impact the view at all. So if you're going to include it, we really must revise those viewsheds and identify possible areas that are okay and find where there is no longer a public view.

**Jenn:** that map has been updated with the PDR ordinance.

**Wunsch:** okay, I should look at your most recent one. The one I had in my files didn't look like it. If we're going to blanket exclude [future farm processing facilities in viewsheds], I want us to be careful. I haven't been able to wrap my brain around the difference of the reference of 50% produce and production in 19B1ii with the 70% in 19B2ii. Similarly, the difference in the 50% with the retail under intent versus the 70% under sources. I just need help understanding how those are going to interact, how they can work together with two different figures. Those are my observations overall. I hope you will continue to move forward with this. I think it's an unfortunate, necessary change.

**Bern Kroupa, 3183 Shore wood Drive:** three minutes. Well, I get on my high horse about agriculture. It takes a lot longer than that. But I guess we haven't dwelt on agriculture too much as we've moved into this particular project that you're going to vote on or talk about later tonight. I'm not in the wine business. One year ago, we were feeling awfully good

about our farming operations. We'd come up with a pretty good revenue season. We talked to the next generation, said, "It's a good place to do business. There are some problems, but we have use by right, and for your future that's a big deal." Well, that spring 2022, it was kind of a shock to return and learn that had all been changed. It doesn't affect me personally, but I continue the fight. I suppose maybe I ought to see the handwriting on the wall. Since Ed O'Keefe opened his first winery in the late '70s, we've built out of the ground 3,000 to 4,000 new single-family dwellings. That kind of changes the composite of things and perhaps we should really understand that as farmers better. But one thing in our family conversations over the past four weeks, the question was raised several times, who would ever, witnessing what we're doing here since last winter/spring, ever consider selling their development rights? So the standing of this ordinance among the agricultural community is not going to be good and we'll probably be talking about it some more. I do hope we're done with the citizens' committee because I would hate to return home next spring and be ready to start farming and find out we have a moratorium on farming while we explore exactly what farming is. Bottom line, as an agricultural community, we don't think we're in a good place right now. Thank you.

**Curt Peterson, 1356 Buchan:** you heard my comments at the last meeting about how I thought the joint meeting was not held in conjunction with the Michigan Zoning and Enabling Act of 2006. Specifically, 125.3308, which talks about how the planning commission needs, at the conclusion of its meeting, to make a recommendation to the township board, and that report has to include comments by citizens. This was not done. From the PDF of [the minutes of] this meeting, I quote, "The township board may adopt the proposed amendment as presented in the package and discussed during the November 1, 2022, meeting, as all requirements of the Michigan Zoning Enabling Act have been fulfilled." That is absolutely incorrect. First, this is a correctable situation. If this is brought back to the planning commission to officially vote on, in one month you can correct all the deficiencies. It can be done right and legally so you're not going to be subject to a legal challenge. And that's what's going to happen when you ramrod this through tonight. There are comments in this new amendment that have been changed since the last meeting. Those wordings did not come from the planning commission. They came from somebody else. Number two, the motion that was passed by the planning commission was so vague that it will be easily challenged. That motion was nonspecific, and I think Warren got it right. Number three, the amendment has been modified since the October 11 meeting by persons who were not on the planning commission. It is only the planning commission that can forward a recommendation to vote on. You can say, "No, I don't want it." You can say, "Yes, I want it" and vote on it. You can say, "No, I don't like it and I'm going to send it back to the planning commission, and here's what I want the planning commission to work on." But people – myself, the planner, people in the audience – none of us can come here directly to the township board and say, "Here's an amendment; I want you to vote on it." It has to come through the planning commission.

**Louis Santucci, 12602 Center Road:** I'm not going to waste my breath pointing out how this board has ignored the dictates of state zoning rules because, as usual, it would fall on deaf ears. You end up forcing our good citizens to waste their hard-earned money seeking

redress in court. One has to wonder what kind of thinking goes into your collective heads when you're happy to force citizens' hands in this way and at the same time waste our town's financial resources to satisfy some perverse desire to show that your actions are not to be questioned. What I want to say is that this processing ordinance is a sham. It will not help farmers and will actually hurt them as one of its many unintended consequences. It was not developed with real input from farmers, especially when an overwhelming majority of people on the wrongly called citizens' agricultural committee are not farmers. Further, there was not one processor or would-be processor on that committee. You had a chance to sit down with potential processors and winery experts, with Walter [Knysz] being just one. If you actually bother to ask him or anybody else, would he have invested in this land purchase if he was restricted to, for example, 50 people outside on a 60-acre plot of land? I think I know what his answer would be. Or saying that you cannot serve any food to drinkers other than snacks. I can go on and on with all the negatives of this proposal. This ordinance makes no sense on so many levels, except that it insures no one will open a processing facility or winery under them. You could have also met with the Michigan agricultural department, USDA, economic development people, the agritourism people from the state, but you chose not to. That would have been a logical way to find out if this ordinance makes any sense. But you didn't. I also find the statement that this ordinance is in response to the court's findings disingenuous at best. The court made it clear, for example, that the out-of-area grape restrictions are unconstitutional. Yet this and other provisions that were found problematic remain in the new proposal. Somewhere in the package, there was a reference that this ordinance is legally defensible. If you have a legal opinion to that effect, we as citizens have a right to see it. If you don't have a legal opinion, then it's obviously just somebody saying it's legally defensible. You still have a chance to scrap this ill-conceived ordinance, but I doubt any of you have the guts to do it. Mark my words, you will be destroying opportunities for future farmers and investors alike. For what? To satisfy the dictates of the people who want to put an end to any more wineries. It's as simple as that.

**Grant Parsons, 6936 Mission Ridge:** let me pour some oil on Mr. Santucci's troubled waters. I mean that respectfully. I apologize for always being positive about you [the township board], just as he apologized for always being negative. But here's what I see. This citizens' advisory committee did listen to farmers, and we did invite winery people to be on the committee, but their death-star lawyer from Miller Canfield apparently prohibited them from being on the committee so we weren't allowed to listen to them. We not only allowed but encouraged winery people to be involved and all farmers to participate from the gallery. I was on the committee. Mr. Santucci indicates that if you have any legal authority that the ordinance is valid, you've got to let the citizens know it. Well, Mr. Santucci could read Judge Maloney's original opinion that denied the wineries' preliminary injunction for some authority, some reason. Then he could read Judge Maloney's opinion reversing himself. And then he could go upstairs from Judge Maloney and find the Sixth Circuit Federal Court of Appeals, just below the U.S. Supreme Court, and look at their opinion throwing out Judge Maloney's second opinion. And then Mr. Santucci or any other person could then come in front of you and tell you what judge should we

follow? What standard should you use? And that is why we on the agricultural advisory committee advised the township board to declare a moratorium. Because we didn't know what standard to apply, and you don't either. And those judges don't either right now. I want to say that the wineries have sued this township a couple of times in the past and lost. They sued this time and almost got away with a win. Protect the Peninsula saved the bacon for this township. TJ Andrews, Protect the Peninsula, everything going on there. And we are working this out. And Bern Kroupa, who I really enjoy, I respect, for him to say farmers feel they are in a bad place, it's just so sad. Because the American Farmland Trust raises this township up as an example for the work that you and we have done. And farmers, if we're not in a good place yet, we're gonna get there. But this township among every township in this country has gone out of its way to preserve farming. So thank you very much for the work you're doing. I really appreciate it.

**Brit Eaton, 1465 Neahtawanta Road:** I'd like to offer three reasons to support Amendment 201. Adopting it helps provide a balance between agricultural and residential interests on the peninsula as is recommended in the December 2021 revised master plan, i.e., to update the township's agricultural zoning ordinances. Number two. Rewriting the winery-chateau ordinance for the agricultural farm landscape is the best place to start in formulating zoning ordinances because it also addresses non-winery agricultural producers requesting parity of uses, rights, and services on the peninsula. Three, the township will also need to address some of these same zoning ordinances when it comes to addressing farm markets and agritourism. If new farm markets and agritourism venues realize the growth that the winery producers have experienced, then adopting Amendment 201 will be an example of addressing the overcrowding elements of retail agricultural production. It is prudent and critical to good planning to have input from experienced professionals like Jenn Cram to avoid the pitfalls of unstructured expansion. You are to be complimented for all your hard work, countless hours of research, mental stress, and dedication to providing a well-balanced and equitable approach to the farm processing facility phase of rewriting the agricultural zoning ordinances. Thank you.

**Wunsch:** it has been proposed that we observe a moment of silence in the wake of the fatal car accident yesterday on Center Road.

##### 5. Approve Agenda

**Chown:** our fire chief has requested that we move current item D up to item B. In addition, two items need to be added to the business agenda. Because this is a special agenda, we will need a roll call vote. Item G, I propose to be the waiver request from the moratorium for Bower Harbors Boat Works. That came out yesterday in a packet addition. Item H is a resolution that our legal counsel asked us yesterday to include on our business agenda, Resolution 2022-11-1 #2, Authorizing Defense of Former Director.

**Wunsch:** our attorney Bill Fahey is out due to personal issues. Chris [Patterson] is representing tonight. We're going to hold off on the update, currently slated as business item G, until our next regular or special meeting so Bill can provide us with the update he was planning on.

**Chown:** so we'll eliminate that final item, going into closed session.

**Wunsch:** any objections to making those changes?

**No objection.**

**Wunsch:** we'll roll call the other two, then approve the agenda as a whole.

**Wahl moved to include the waiver request from Bower Harbors Boat Works as new item G with a second by Sanger.**

**Roll call vote:** yes – Achorn, Wahl, Sanger, Shanafelt, Chown, Wunsch Passed unan

**Wahl moved to add Resolution 2022-11-1 #2, Authorizing Defense of Former Director, as business item H with a second by Sanger.**

**Roll call vote:** yes – Wahl, Sanger, Shanafelt, Chown, Wunsch, Achorn. Passed unan

**Wahl moved to approve business agenda as amended support by Sanger. Motion passed by consensus**

6. **Conflict of Interests:** none

7. **Consent Agenda**

**Grant Parsons from audience:** I request correspondence B be moved to the consent agenda.

**Wunsch:** okay, does everyone support this?

**Board agrees.**

**Grant Parsons, 6936 Mission Ridge:** I wrote this letter to the board. I attached some pictures and I'm looking for guidance. This really isn't about you. It's about the tree cutting policies that are acceptable on the peninsula. This young couple, Chris Spencer and Drew Mallozzi, bought the farm, big acreage that they want to keep in farming, not develop. They live out of town right now, spend a lot of time here in the summer and on weekends. They came home the other night and a 100-year-old Norway maple had been chopped down. This is what you would call the signature or iconic element of their vista looking at that house. It's down on a little bit of a dip below Center Road right across from Chateau Grand Traverse. This tree did not have a speck of rot or anything like that. It's sort of a Walt Disney story of what this tree meant to them. And without any notice they come home and there's a pile of cut chunks, 41 inches wide at the widest. They have more than 100 feet of slash beyond this pile down into their meadow. And the problem is, there's an electrical pole in the background, but it's a dead-end pole. It ends there; it doesn't go anywhere else. This line could have been moved, the tree could have been topped, it could have been pruned, or they could have been given notice. I'm just asking if anybody either here or watching has some wisdom to give me. Rob Manigold, as you recall, was incensed at one point about the tree cutting that was going on out here. That was courtesy of the road commission or its subcontractors. There's a little Consumers Power flag there with the name Tim Cutler. I've got his phone number. I've tried to call him a number of times; his voice box is full and won't take a message. I texted him; he won't respond. And here I stand a lawyer and I should just pull up my lawsuit and shoot. I don't really want to do that. I would rather see if something constructive could be done. If anybody has any insights into how these people can talk to Consumers or to review something that could make sure this doesn't happen again, I really would appreciate it. Thank you.

**Shanafelt:** in the invoices on page 14 of the packet, we evidently paid for advertising for WOMP. I'm just curious why we did that. Maybe we can investigate that.

**Achorn:** the invoices aren't divided by bank account.

**Sanger:** it's in the lighthouse section. I saw that too.

**Shanafelt:** 508-000-900.PNP.

**Sanger:** page two of the lighthouse.

**Achorn:** a half map?

**Shanafelt:** if it's something we have to do, then fine; it's just interesting in the context of our particular situation.

**Achorn:** I can ask about it.

**Shanafelt:** on page 20, I guess this is an annual thing, we have lots of hoist and dock citations. I didn't have last year's to compare it to. Is it annual?

**Sanger:** these are not citations; they are incidents or reports of calls for service. The docks and hoists have to do with multiple things. In September, I did a survey of the shared waterfront hoists in service before they were taken out for the winter. I made in the vicinity of ten visits to shared waterfront locations to do a violation check.

**Shanafelt:** there's a typo on the header of the 29 September minutes; it says "May."

**Sanger moved to approve the consent agenda with a second by Shanafelt.**

**Roll call vote:** yes – Sanger, Shanafelt, Chown, Wunsch, Achorn, Wahl

## 8. Business

### 1. Water and Sewer Rate Increases

**Achorn:** John Divozzo is here to explain the rate increase study that was done last year and what he knows about this year.

**John Divozzo:** in your packet is a memo with proposed rates dated October 25. It's a summary of two scenarios we went through with regard to water and sewer rates. One scenario was if we increased rates in 2021, and the other is if we waited. Scenario #1 is increasing rates beginning in 2021. We started our rate analysis sometime in April. It took a few months to get the rate study done, and then a few months to present it to the township. You did raise rates in November of that year. Those are our current rates. So when Marge [Achorn] asked me, "What should our rate increase be? What's your recommendation?" it's not an easy answer. The rate study anticipated rates over a certain number of years, but we wanted you to begin at a certain time. So the initial rate increase was after our recommendation. And 2022 is almost over and we haven't had an increase this year. So I gave her a cryptic message of, "This is minimum, but there's a maximum that we would recommend." So scenario #2 on your memo, for water because water is really the crucial one, the difference between scenario #1 and scenario #2 is roughly 10% net increase. But it did anticipate a 30% initially. So in 2021, it was about 18% that the board authorized. Then we recommended another increase in 2022 off 18% followed by another increase in 2023 of 18%. So when you say, "John, tell me what I need to charge for water," I'm telling you that your rate should be at 2024 levels today. If the board and your customers can accept that, that's where we would ask you to put your revenues. We did not anticipate that being an easy decision, so we spread that out over a number of years. Our recommendation is, you should be at that 2024 level today. Actually yesterday.

**Achorn:** that's at the \$44.06? Or the \$45.48?

**Divozzo:** the recommendation is scenario #1. Scenario #2 is that worse case that happened, but you increased rates and that allowed us to go to a different scenario. That increase changed what scenario #2 looked like. Scenario #2 came out first. Since you went with an increase, we changed that to scenario #1. For lack of anything else, ignore scenario #2. I included that because there is a rate study you have that shows those as

recommendations for rates, but you increased rates immediately in 2021. That allowed us to change that scenario to make it a little more favorable to your customers. Scenario #1 is really what we're dealing with. And the recommendation we have from a revenue standpoint is to move to the 2024 levels. We just spread that out over a few years to make increases more palatable to your customers. It's not easy looking at rates when they haven't been raised in a long time. The township purchases water from the city. The city's involved in tremendous amounts of improvements to the water treatment plant. Those costs get passed down to you, pretty much per gallon that your customers use. We need to pass those directly through. There are no subsidies; rates have to cover all those costs.

**Achorn:** I can add some numbers I know right now regarding the cash for the water. There is less than \$143,000 in the bank. Of that amount, \$57,000 is owed to the sewer fund and \$75,000 is owed to the tower fund. That means there's maybe \$10,000 actual cash available. I am seriously concerned we cannot pay back those loans because I'm at risk of overdrawing the bank account.

**Divozzo:** we did make a recommendation to hold off on the payment back to that sewer fund. You're not obligated to do that. I believe the recommendation is just to have the board make notice that you know about it and are going to pay it back. Then wait for the rates to catch up in water. When you have funds available, you can make that. As far as the tower fund, I'm not aware of that.

**Achorn:** we had additional bond payments required to be made, so we had to put in more money. My thought process is that we should go to scenario two with a 30% increase this year and a 30% increase next year to quickly bring us back up to where we should be. Or on the dollar side, scenario #1 with a \$44.06 cent rate. It's pennies difference.

**Divozzo:** when you take a look at current revenues or current expenditures, we're projecting out five years. Inflation is higher than what we're projecting. Number two, wages are increasing more than we projected. Aside from inflation, actual costs for utilities are increasing, and the city is working on major capital improvements on both the wastewater and water treatment plant. I don't want to make it look like we're standing here dictating what your rate should be. We did a rate study on behalf of the township that was presented to the township. The rate study itself does say the minimum cash you should have on hand for 2022 is \$200,000. So rates are all contingent on having that cash in the bank this year. We're behind the eight ball. The sooner you can get rates to where they were projected at the \$44 mark, the better off you're going to be.

**Achorn:** does that mean a 30% increase this year and a 30% increase next year?

**Divozzo:** I'm telling you today that if you want to not have this same discussion a year from now, or six months from now, you should probably move to 60% now. My recommendation is that you get to the \$45 a month rate as soon as possible.

**Achorn:** you're recommending a 60% rate increase this year.

**Divozzo:** I'm not an elected official. It's easy for me to make that statement. That's the rate you should have at this point. If we can't move to that, then the further these rates go out at the end, the higher those rates are going to be for your customers. So it's either an immediate impact today or a greater impact in the future. Our recommendation is always to minimize the rate if possible. When you're talking \$15 to \$20 a month on a \$20 month

bill, that's doubling someone's rate. So that's not an easy pill to swallow.

**Achorn:** but the rates have been low for too many years.

**Wunsch:** I'm not on municipal water or sewer at my residence. What's the average rate being paid for these services currently?

**Divozzo:** average in the township?

**Wunsch:** yeah. I appreciate the memo you sent and the data we have, but it's hard for me to make an informed decision about how much pain we're passing on.

**Divozzo:** it's probably easier to talk sewer first. An REU is 1 for a household. The majority of customers in Peninsula Township are households. That value per house per REU is their monthly bill per house. On the water side it gets tricky because it's split between a ready-to-serve charge, which is a flat fee for the month regardless of usage. That's your minimum bill. Then any usage above the allowance adds to that. When we say the ready-to-serve charge is \$26, that's your minimum. The commodity rate is \$2.30 per 100 cubic feet. The average household uses about 600 cubic feet a month. But there's an allowance built into that so it's not quite six times that. So your bill is just under say \$44 a month currently for water and \$21 per month for sewer. We're looking to raise those to roughly \$60 a month for water and \$29 a month for sewer. It's going to be about \$15-\$16 a month for water and then roughly \$8 a month for sewer.

**Achorn:** for the 60% increase this year.

**Shanafelt:** it's not quite 60, more like 40%.

**Divozzo:** it's 30% of what you're currently at and then 30% on top of that.

**Shanafelt:** basically going from \$41 a month to \$58 for water to be where we should be.

**Chown:** well, we don't really have a choice.

**Shanafelt:** I don't think so.

**Chown:** we've got to do this, as painful as it is.

**Divozzo:** and then next year, I always like to recommend rates go in at the beginning of the year. Because all of our budgets, your minimum balance, are based on you collecting that revenue over the whole year. When you do it at the end, you're putting everything off a year. So I would recommend that the board move to that rate as quickly as possible. And then we tackle the next rate increase, which will be roughly 3% earlier in the year.

**Chown:** how much earlier?

**Divozzo:** within the first quarter.

**Achorn:** of 2023?

**Divozzo:** yes. And then every year after within the first quarter increase rates roughly 3%. Every year we take a look at that increase, what those rates are, what your expenditures are, what revenue is coming in, what difference you have, all your future bond payments and stuff like that. And then we project that out a certain number of years and make sure you still maintain a minimum balance in your funds. If you get below that minimum, we might recommend more than 3% just to maintain that.

**Shanafelt:** that will be a function of actual usage. You were saying today we should be at the 2024 rate of \$44.06, yet first quarter in 2023 you want us to raise it. Why would we be going to a 2024 rate today and then immediately raise it in 2023?

**Divozzo:** two reasons. Scenario #1 anticipated a 2022 rate. And scenario #2 did not take

into consideration a rate increase in 2021. So we're somewhere in between.

**Shanafelt:** what I'm trying to get to is, let's pick the right rate today that we need to be at so we can catch up.

**Divozzo:** it's \$44, \$45 a month.

**Shanafelt:** right, so is \$45 even our target for the ready-to-serve rate?

**Wunsch:** what I'm hearing is we have to move to 2024 line of scenario #1, the \$44.06 ready to serve and the \$28.94 for the REU, and we should make that effective immediately.

**Shanafelt:** and then first quarter we take a look and see what we need to do?

**Wunsch:** I appreciate the desire to spread the pain over time with these increases, but it would be easier to handle a single newsletter update to those on municipal sewer and water. We talked about this a year ago. We have to keep up with rising costs of doing business. I hate to inflict higher rates on everybody, but if we're paying out of the tower fund right now, we're virtually subsidizing utility service for folks who are on municipal water and sewer throughout the entire township. That's an interest-free loan right now, but we should get that resolved as soon as possible and pass on an explanation.

**Divozzo:** what we'd like to do from an operation management standpoint is come to you this time of year and say, here's where we are this year, here's what your rate increase should be next year. Then January, February, March you implement those increases. We've never had that process since I've been here, almost nine years. I don't know what it was like before that. We go through our budget process, which is a calendar year; the township has a different fiscal year. Our audits are out of sync and it's hard to get you information in your timeframe to get your increases done. All the studies and our recommendations are done on our calendar year. But if you look at different frequencies over that, there may be differences in cash flows, expenditures, and/or revenues. We did a rate study that went back five years. It projected out 10. We included an asset management plan, which we completed; we included whatever assets management plan the city had on paper, and we anticipated some increases in both wages and inflation. But it's just a snapshot. If at any point during the year you have to not use the revenues collected and dip into the fund to subsidize something, then that means everything has to be redone and the next increase has to be higher than projected because we need to get you to have that minimum. Our goal is to get 200,000 in your bank. Once we get there, we can rest a little easier and you can take a look at your rates and maybe not have to increase as much. You might be able to go a year with less than that 3% increase. But what this shows is that you shouldn't wait 20 years. 20 years, you are going to have to double your rates, and then you're always behind the eight ball and then when something happens that you have to use the fund money, you're in a crunch. Water is definitely in a crunch. It was in a crunch last year.

**Shanafelt:** to your point, Isaiah [Wunsch], about having it happen and informing people, I'm just thinking if we're going to do this change now and then do another rate increase, we should just stick with a 44.06, not move up to 45 something.

**Wunsch:** once we get into that 3%, basically inflation, it's a little bit easier. We need to get into the habit of doing that annually. Before you joined the board, we didn't increase rates

for a very long time. Everything went well from what I understand while the capital equipment that the department of public works owns was new, but when we needed to replace lines, we were short because we'd underfunded.

**Sanger:** for clarification, if we go to 44.06 tonight, will that hold us through 2023? Or are we going to have to have a discussion again next April or May?

**Wunsch:** if we move up to the 2024 rates, we should be good for the next cycle.

**Shanafelt:** that's not what I heard; that's my point.

**Divozzo:** here's what I'm telling you. Everything anticipated the rate increase in 2022, which has not happened yet. Get the rate to where it needs to be. The years are just how many years it took for you to get to where the rates needed to be initially. And they're adjusted for inflation. 2024 is where we're no longer increasing rates to get us there. From that point forward, we move based on inflation, basically to get to the rate.

**Wahl:** he's saying 2025 would be in the first quarter of next year. Why don't we just go to 2025 today.

**Chown:** then we can hold until a year from now.

**Wahl moved to approve the water and sewer rates approved for 2025 in scenario #1 with a second by Chown.**

**Achorn:** what date does this begin?

**Divozzo:** as soon as you implement it.

**Achorn:** so we implement it today, so it starts with the November bill?

**Divozzo:** October bills are just going out. Technically, it would be implemented today. Those bills are going to be generated the end of November.

**Achorn:** so it would start with the November usage. We would be at the \$45.34 ready-to-serve and the \$4 commodity.

**Divozzo:** yes. And sewer is \$29.78 per REU.

**Achorn:** and then we'll see you in a year?

**Divozzo:** yes. We will present the audit, budgets, projected budgets, and then we'll take another look at the rates. It will not be the same type of study as this. This was a professional rate consultant. We're going to see what your operating capital is, or operating income is, and make sure we're putting money into the fund and not taking it out. If you're putting money in, I think we're good. But if we're still taking it out, we need to reverse that. Plus, it will give us a better chance to see what inflation has done for this budget and next year's. Next year's budget has already been submitted. It was in accordance with this rate schedule, anticipating an increase. So you're above what we projected. Expenditures were below. I mean, I'm not going back and raising expenditures. There should be operating income for next year with this budget. I've done some calculations. Each of those increase 18% or whatever we were anticipating on an annual basis. Each increase from where we are is roughly five to six thousand dollars as far as revenue per month. Where we're at, you should see a healthy impact second to third quarter next year. You should definitely see something in your fund changing from where it is right now. That's what is necessary, keeping in mind you have \$120,000 in debt to pay off before you can say you're going into the positive. We recommended putting off some of those payments because you just didn't have money. This happened at a crucial time.

Hopefully we won't be this hot for raises this time next year.

**Roll call vote:** yes – Shanafelt, Chown, Wunsch, Achorn, Wahl, Sanger **Passed unan**

2. Resolution 2022-11-02 #1 Natural Hazard Mitigation Plan Adoption

**Chief Gilstorff:** you have in your packet the county natural hazard mitigation plan. This is basically the 2022 version. You adopted the 2019 version back in 2019. It's basically a collaboration of effort between county officials, the different municipalities, townships, as a county-wide mitigation process. It doesn't cost us anything. It does give us a decent probability of going for grants to mitigate hazards that we find. Now before you start thinking "What about Bluff Road?", there's no way we can get anything through this plan to deal with that situation. That already happened. It's about preventing things we know are there, drainage culverts, flooding issues, things of that nature, where we know it's there. Let's take care of it and try to get some money through grant funding. This allows that to happen. There's a lot of information in the plan. There were quite a few things that have already happened out here with rising water, windstorms, that did a lot of damage to the shoreline. We need to deal with and maybe could have prevented that by taking action earlier. Shore some things up so they would take the natural beating a little better and be in a better place than where we are right now with Bluff Road. I highly recommend that you vote on the resolution and adopt this plan. I have the emergency manager for Grand Traverse County, Greg Bird, here as well. He's very knowledgeable about this; he actually helped author it. We worked with local emergency planning groups and a bunch of people came together to cover issues in Grand Traverse County.

**Wahl moved to pass resolution 2022-11-01 #1 with a second by Sanger. Motion passed by consensus**

3. Update from the parks committee

**Michele Zebell, 2616 Bower Harbors Road:** I'll be addressing the items that are related to Bower Harbors Park, and then Ronessa Butler, our newest member, will handle the other items. As you know, our basketball courts are in bad shape. We have a group of folks that are very gung-ho about pickleball courts. We've been trying to find a solution. A small group met and came up with a wonderful idea. Just as we have pickleball court lines on one of our tennis courts, the suggestion is that we put two half-court basketball courts on the other tennis court. In other words, just as we have lines for pickleball over the tennis court lines, with contrasting colors so that it's easier to see, we would put an NBA- size basketball court on both the north and the south ends of the other tennis court. We understand that we have to make certain to make that safe. There are things that have to be in place for a basketball court. But we're also exploring what we might also need to do: placement of the pole that supports the backboard or whether we need netting in between the two courts. The parks committee feels this is a viable solution and gives us a way to provide a safe place for the basketball players to play and actually a larger space, although half court. Our current court does not fit any of the requirements. I believe it's too wide and too short to even be a junior court. It also allows us to open that area up should pickleball courts someday go in that location. The other item is the playground at Bowers Harbor Park. As requested, Becky [Chown] contacted the township lawyer to look at the contract. Mr. Fahey suggested we contact them and ask if the township is covered

for things like insurance, warranties, guarantee of materials, and workmanship. Becky contacted the Sinclair company, which in turn let us know that through the Michigan MiDEALS program, the township will be covered through GameTime's warranty insurance and compliance information. That's through the state of Michigan having contracted GameTime through MiDEALS. I want to thank Mr. Sanger for bringing that up. I do have with me a copy of that information regarding the warranties, etc. Also, if you're interested, a diagram that shows the placement of the basketball courts superimposed over the tennis court. I appreciate that it does not approach the midline, which is a good thing. Obviously, we'll have to come up with a solution to that but it seems like a creative and smart plan.

**Chown:** this is contingent on the resurfacing of the existing tennis courts next year, correct? My question is, if the six new pickleball courts are constructed, would we continue to double line that one tennis court for both pickleball and tennis?

**Zebell:** I don't know that we've made a definite decision. We've talked about it.

**Shanafelt:** we discussed it and the pickleball group thought the six courts would be sufficient. I do think putting two half courts there is great. Having three different sport lines would get a little confusing.

#### **Board Discussion**

**Ronessa Butler:** we were asked to make a recommendation for an art show to be held in Bowers Harbor Park by Blue Ribbon Events. Ultimately, we tabled the recommendation pending additional information such as parking, traffic flow management, booth location site maps, and vendor parking. There are a lot of details the presenter didn't have when she came to us. We want to make sure we're in compliance with ordinance regulations. That was the biggest question, and it's being investigated. The other thing to be aware of is that this is essentially a three-day event. Vendors loading in on a Friday, presenting on Saturday and Sunday, and loading out on a Sunday night. The other thing to be aware of is that, as a first-year event, they're going to start small with 50 artists and up to 2,000 people attending a day. I believe the quote was up to 100 people an hour at peak. The final element is, this is a for-profit event. It does meet the definition of a large event. That \$500 fee would come to the township. Whether that's for the event or daily, I don't know.

**Shanafelt:** can we also ask them to get information from the neighborhood as to whether or not they're willing to put up with that kind of traffic?

**Butler:** could we ask the event presenter?

**Shanafelt:** yes. It's unclear to me what this event does for the township. I think it does a lot for the for-profit entity, but it does nothing for the township.

**Butler:** that question was raised at the committee as well: what does this bring to the township?

**Shanafelt:** they're going to say "Lots of people."

**Ahorn:** wasn't there a date conflict?

**Butler:** yes, thank you. She initially offered a date in July and proposed an alternative date in August. Maybe there was a date available in June, maybe in September. It was all up in the air. We did discuss how those are our peak times. That makes it even harder to understand the full impact in our community. I think that is another piece of information that's being resolved at this time. I believe it was a September date that we were waiting

to hear back on but she will have those dates.

**Sanger:** I would like the parks committee to evaluate the use of the parks by our residents and visitors for park use. This board has discussed before another commercial event on our property and what benefit it accrues to the township. We have three races now, the Bayshore, the Saturday of the Cherry Festival, and the mini-biathlon combined event in August. This group has come forward and is really asking to rent our park. I would like the parks committee to tackle this question. It's a bigger question. We have another event that goes on called the Lighthouse 100. We're getting a proliferation of commercial business coming in, much like Traverse City faced with the open space eight to ten years ago in terms of when is enough enough. I think I know the answer but I would like the parks committee to bring it to us.

**Butler:** thank you for that. That was a point of discussion, how this would affect residents' use of the park. That will be additional information we can collect. The next topic is the five-year recreation plan. We met with Barry Hicks from LIAA. The plan is due February 1 of next year. This is typically a longer process that can take up to a year. We're working hard to get this done on that timeline. We looked at dates for posting a draft, collecting public input, having a public meeting, and submitting to the board for approval. Those dates have not yet been finalized. We are on track to make the February deadline. Parks committee members are currently preparing our goals and objectives for each individual park. We're going to be submitting that to LIAA tomorrow and then identifying our priority goals. The parks committee would like to thank the township board for approving the recommendation to work with LIAA. We think the continuity of their knowledge and familiarity of the parks is invaluable. The feasibility study they did this summer really set the groundwork for what we're doing. The last thing is the letter of support Mike Skurksi wrote on behalf of the parks committee for the request for Grand Traverse county ARPA funding for the Kelley Park boat launch and facilities project. We did approve the support at a meeting on October 26. Mike wrote a lovely letter.

**Shanafelt:** did we get out our request for playground equipment in before the end of the month?

**Zebell:** we made it!

#### 4. Discussion on policy on correspondence for packet additions

**Cram:** there's a memo in the packet that highlights this. We have discussed this at several board meetings but I wanted to put this on the record for future packets so that the public and applicants are aware. With regard to correspondence, "Correspondence from the public to be included in a packet or packet addition is limited to three pages. Font should be no less than 12 so that it can easily be read. With regard to materials for a regular packet, this would be if somebody had an amendment to a site plan or a memo or additional support material. "All materials to be included in a regular package shall be submitted eight days in advance of the publication of the packet." This gives staff time to review it and get it to their appropriate board or commission for review and inclusion in the packet. These policies apply to the Peninsula Township parks committee, planning commission, zoning board of appeals, and township board. We're standardizing our packet policies for all the groups. This is out of necessity because it's becoming increasingly

difficult to put our packets together when we get information last minute. It doesn't allow people to review things and make good decisions. That's why we're putting these policies in place. With regard to a packet addition, "The clerk, director of planning, or director of zoning may choose to publish a packet addition one day before a regular meeting of the parks committee, planning commission, zoning board of appeals, or township board. Materials must be submitted by 9:00 a.m. the day before the scheduled meeting." We will post this to the website. Staff will be available to answer any questions.

**Chown:** I have a correction. After "Materials for the regular packet," delete the words "and including correspondence." It should just say, "Materials for the regular packet."

**Shanafelt:** when is the agenda published? I'm just imagining if I read the agenda and I want to write a letter on one of the items. Those letters are then captured in the materials that may be included?

**Chown:** yes. If I receive correspondence by 9:00 a.m. the day before the scheduled meeting, then I will publish a packet addition. The agenda typically comes out on Thursday. That gives people Friday, Saturday, and Sunday [to read, write, and submit correspondence].

**Cram:** if we do receive something after that 9:00 a.m. deadline, there can be a request that the correspondence be read into the record, or, if it's requested, we would put it in the next packet.

**Chown:** I don't read correspondence into the record unless we're having a public hearing. I would not want to create that expectation.

**Cram:** I can add that and then post to the website so everyone can see what our packet policies are.

**Sanger:** this is an issue that has bothered me for a long time because I've been on quite a few boards. I come to a meeting and there are items on the desktop. I thought we talked about eliminating that, where people walk in items for us to view three minutes before the meeting starts.

**Cram:** correct, that will no longer happen. With regard to an application that's moving forward before the zoning board of appeals or the board, they would have to have any revisions in eight days prior so that it makes it into your regular packet so you have an opportunity to review it. For larger projects, we will have deadlines so that everybody has an opportunity to receive that information and review it in a timely manner.

**Sanger:** I guess my point is, isn't there something missing in that the submission of information to the board, whatever board that is, between nine o'clock in the morning, the day before, and the time we walk in? I've come into this room and there have been piles of papers.

**Chown:** it may mostly eliminate it, but oftentimes individuals who are going to speak in public comment will, as a courtesy, give us a copy of their comments. That often happens and I don't have an issue with that.

**Sanger:** I don't as long as they're present. But I've seen on this table legal correspondence and correspondence from non-attendees probably between ten minutes before the meeting and the meeting that as a member of whatever board, you have to sit here and try to comprehend it.

**Wunsch:** that's what we're trying to eliminate.

**Sanger:** it doesn't say that in here.

**Wunsch:** anyone still has the right to drop content on our desks that they wish to, but it's no longer a formal part of any discussion that we have. Particularly in the legal community, if someone's attorney decides to show up at 6:45 and provide you with a 20-page memo explaining why you should or shouldn't vote for a particular development, that information would not be expected to be included. We will have clearly communicated to everyone that they need to have information submitted to the boards in a timely fashion. From my standpoint as just one member of this board, if there's a request for us to table a certain business item because information wasn't included, that's something we can consider. But this business of trying to jam in information five minutes before a meeting to derail the process will no longer be allowed.

**Chown:** if we find that we need to further amend this policy because something occurs that we hadn't anticipated, we can do that as well.

**Sanger:** so items that show up on this desk are not going to make it into the official record. If the person sitting in this chair wishes to look at it, that's their decision. And it's not going to be part of the official record.

**Wunsch:** people often email us on the day of a meeting. We've run into this issue several times where the clerk is busy with elections administration, and there's an expectation that we rush out packet additions for the general public in the last minute, and that's not reasonable. Are there any objections to this proposed policy?

#### **Board agreement**

**Cram:** I will put this in writing and post it on the website.

5. Discussion of updated Peninsula Township Employee Handbook with potential board action to occur

**Achorn:** the original employee handbook was quite a few years old. The former clerk before she resigned took on the task of revising it. I received her draft just before she left. It was in a three-inch binder. The board agreed to have a subcommittee of Isaiah [Wunsch] and Dave [Sanger] and me start from the old manual and try to figure out what needed to be updated. The first thing we did was meet with the staff to get their input. Then we went to find out exactly what the law described as the different types of employees who would be considered under the manual. After that, we sat down for several meetings with our attorney and dictated the changes that we would like to have made. After several months, what came back was another three-inch binder that did not include any of our information. That was during the COVID closure of the office. At that point, I started x-ing pages, deleting duplications, putting back in what we wanted to have in there. Then we asked FOIA coordinator Beth Chan to do the monumental task of trying to organize my notes into a readable beginning draft. She did this admirably. Becky [Chown] took over with her skills. It went back for legal updates. And it came back as the original three-inch binder. Luckily, we had a file still on the computer. At that point our new attorneys took over and cut out quite a bit more. This is the result. We gave it first to the staff for their comments, written recommendations, and questions. Tonight we have what we hope is the final version. We have a couple of questions that we would like to ask the board. The

main thing that changed was with regard to vacation. In the past the employee handbook said, "Use it or lose it." So what happened in December was the office was empty. The main change was to allow for a four-day maximum carryover of unused vacation into the new year. This would not be cumulative. It is not like the teachers' union or the county or anybody else who comes out of a working arrangement, retiring and having 80 days of vacation left over. This is just a four-day carryover from one year to the other. Most of the other changes have to do with clarification, explanation, and putting in what was required based on federal, state, or other regulations. We discovered in the last reading a conflict with regard to personal time. In the past, personal time was "Use it or lose it." This personal time is sick time or a day off if you want to not come to work. The conflict is on page 48: "Upon resignation or termination, PTO is not eligible for payment." This has historically been the rule. The conflict appears in appendix C, employee separation information. PTO was included as part of the calculation of the final pay. My recommendation is to exclude it from appendix C and continue with the longstanding policy that PTO is not eligible for payment on termination. Any other changes are formatting or correcting wording, nothing major.

**Chief Gilstorff:** on termination or separation?

**Achorn:** PTO upon resignation or termination. Appendix C, the heading is "Employment Separation Information." In the old personnel handbook, the fire department was included to some extent. It is totally excluded here. The fire department has its own employee handbook that includes the union requirements. If it's not specified in the union or fire handbook, it falls back to this township handbook.

**Shanafelt:** it's a good document, very complete. For an employee manual, it's very readable. There are a couple of things. One is the code of ethics. You say, "See the clerk for copy." I would include the code of ethics as your first appendix. It's important, I think, for everyone to see it without having to ask for it. Then on page 115 of the packet, the pension area, the 401K. Page 16 of the handbook. The statement is made somewhere that 13% of the salary is put into the pension. Is that 13% of the employee's salary? Or is it the equivalent of a 13% match put in by the township into the pension?

**Achorn:** 13% of the gross pay, paid by the township, which is historically the same.

**Shanafelt:** I think we should maybe add words, "The equivalent of 13%" or something like that for the employee just to clarify. Pensions are really tough from an economic point of view. Almost every company in the U.S. has gone to a 401k instead. 401K matches typically are 4%. That's the industry standard. Every now and then you see 6%. I would like us to investigate moving to a 401K and terminating the pension, and then we can provide a match. There are tons of plans out there. Pensions are hard; the liability is really difficult.

**Wunsch:** is it an actual pension?

**Chief Gilstorff:** it's a defined contribution.

#### **Board Discussion**

**Achorn:** it's a 401A, which is a defined contribution plan.

**Shanafelt:** I will state for the record that 13% is huge and out of line with industry standards. Either we need to change that or move to a 401K where we match an employee contribution.

**Chown:** you're correct; it's generous. I would say, though, that the salaries are rather low.

**Shanafelt:** that's a good point.

**Chown:** this is one way, historically, as it's been explained to me, that the township sought to attract high quality staff. Because even though salaries were not tremendous, there was this very generous benefit.

**Shanafelt:** fair. Okay.

**Wahl:** we had a lot of discussion around this at the last turnaround of employees.

**Wunsch:** this all happened when I was a high school student. They switched from a defined benefit to a defined contribution. If I recall correctly, they never had an issue with underfunded pension liabilities, but they were worried about it. They increased their pension contributions. They basically took what had been the cost at the time and instead of turning it into direct employee compensation moved it into the –

**Shanafelt:** I'm reacting to the word "pension" here. Do we want to change that to be a defined or directed benefit program instead of calling it a pension? Or is it actually a pension? Because if it's a pension, then we have legal responsibilities to ensure funding.

**Achorn:** I don't have a copy of the contract. They don't call it a pension in the contract; they call it "Deferred compensation, 401A." On the actual contract with John Hancock.

**Chown:** on the next page, we have "Deferred compensation 457 B."

**Achorn:** that's what it is.

**Chief Gilstorff:** that's separate.

**Achorn:** it's totally voluntary.

**Chown:** we'll see what they call it.

**Wunsch:** do you want us to try and get these modified?

**Achorn:** it's just a word you're talking about.

**Shanafelt:** I think we can work on this. I clearly reacted to the wording and the 13%, but I understand the logic behind it. I clearly didn't read 457 in the next paragraph because then I would have said we have two plans. I don't know if a clarification is needed or not.

**Achorn:** your question about moving to a 401K plan would take a great amount of study and additional work. It would not be at this point.

**Shanafelt:** I'll retract that 401K. The last thing is on p. 145 of the packet, bringing weapons to the workplace. I think having weapons in the workplace is incredibly frightening. I'd like to raise the bar for employees being allowed to bring weapons in. Currently the employee manual says all they need to do is inform the clerk and that's it. Now they can bring weapons in. There is no approval or anything, at least as I read it. What I'd like to suggest is, they have to inform the clerk and then a majority of supervisor, clerk, and treasurer have to approve. And that majority has to include the supervisor. So we have a little bit of layers here for anyone to get approval to bring a weapon in. I want the supervisor always included in that majority because the supervisor is the person in charge and ultimately needs to take responsibility.

**Sanger:** I was going to raise that same point, but I take an opposite view. This language goes back 25, 30 years. A lot has happened in the state of Michigan. I believe this section is pretty much no longer needed. If you look at our weapons control laws in the state, they're very strict on hand gun licensing, very strict on training, very strict in terms of

abiding by the second amendment. And I agree with you, workplace violence is very important. But, again, it gets into an issue that I think is better left for the existing state laws. To have to have the township take a stand that infringes –

**Shanafelt:** the township is not taking a stand. I'm not recommending we disallow it. I'm just saying how it can be approved.

**Sanger:** I'm saying for the citizen to carry with a permit –

**Shanafelt:** this has to do with employees.

**Sanger:** I understand that, but I'm saying that the township has no control over the citizens coming into this building or the township building with a CCW or a CPL, and we're setting the bar much higher for our employees. I would like to talk in more detail about this. I think it's important, but requiring an employee to lock a firearm in a car unloaded? This goes back 25 to 30 years before we had the legislation we have today. I think this section should be reviewed. It was discussed four or five years ago at a subcommittee. I thought previous council had worked on it, but apparently they did not. I just feel this section is no longer needed.

**Shanafelt:** and the logic is that, as a citizen, if I have approval to carry a firearm, I can come into the township hall if I want with that firearm.

**Sanger:** that is correct. The bar is held to a different level for employees, for what benefit? The answer is, we don't know. This is a long discussion but we know where violence is taking place in our society. I would prefer to let the laws that are on the books stand.

**Chown:** so your preference is to eliminate that section altogether.

**Mugerian:** any citizen can go in there and open carry all they want since it's a public building. They don't even need a concealed license. I'm not a township employee, but all I'm saying is the citizen has a right to carry a firearm inside. I agree with Dave [Sanger].

**Chown:** I do too.

**Shanafelt:** Dave, you've persuaded me.

**Sanger:** to the best of my knowledge, we cannot post a sign saying "No firearms allowed in this building" or other township buildings. Depute Mugerian hit the nail on the head. Open carry is allowed in this state. I don't endorse it. It scares me. It scares everybody.

**Shanafelt:** but everyone has the right. I agree with you.

**Sanger:** I'm concerned about setting the bar for our employees, who we have done thorough vetting on and we know them –

**Shanafelt:** my comments were made without having a proper understanding of the existing open carry law. I think you're correct.

**Achorn:** how would you change this?

**Chown:** eliminate it altogether.

**Achorn:** eliminate "Weapons in the Workplace"?

**Wahl:** I'm for it. I'm a concealed carrier. I don't have one on me right now.

**Shanafelt:** if one group has a particular right and in an imbalanced way restricts another group, that is not appropriate.

**Chown:** does anyone object to eliminating that section?

**Achorn:** I've been told that prior treasury office people carried because they carried money to the bank.

**Shanafelt:** we're in agreement. Maybe just double check with our counsel to confirm.

**Chris Patterson:** we've actually counseled quite a few clients on this in the past few years; we'll be able to add to the conversation.

**Chown:** then do we wait?

**Wunsch:** I would recommend that we approve what's been presented to us. We have a functionally complete personnel policy handbook. Both of the issues of pension and fire arms are pre-existing language that was pulled out of the previous handbook.

**Wahl:** we can always amend it later.

**Sanger:** I want to raise one more point. I think this is important, with my background in a large corporation and in private business. It's "Employee Complaints" on p. 41. It's always good to put how the company handles this matter in writing. What you've outlined is multi step. The first step is talk with your supervisor in an attempt to resolve the matter. The second step is, if it's not satisfactory resolved, the personnel committee becomes involved. That's a great idea, but let me say what bothers me. We have three departments in the township office chaired by the clerk, the supervisor, and the treasurer. The complaints are going to come within the three departments; they are not going to come from without because we don't have any without. Say the employee goes to the supervisor and lodges a complaint and is unable to resolve that complaint. I don't think it's appropriate for that immediate supervisor to be on the personnel committee review of the same matter because that person is then getting two votes. I think the appropriate thing to do is to allow for a trustee to be a member of the personnel committee, in which case, if one of the three of the department heads recuses themselves from the level two, that the employee can be assured that the person who has been unable to resolve the complaint doesn't get a second vote. I think you can do that with your existing language just by modifying the handling of step two. It says, "Submit a written complaint to the personnel committee." I think the committee evaluation, the second level, needs to be wordsmithed to allow for a trustee to come in and help.

#### **Board discussion**

**Chown:** maybe the solution is to put a sentence in here that allows the individual bringing the complaint to request a trustee rather than their direct supervisor or whoever the complaint is lodged against. I'll add a sentence to that effect.

**Achorn:** I did note, under the Cobra section, page 18, that it specifies 2%. What happens if the law changes? I would say take out anything that has actual numbers.

**Sanger:** just say, "As required by law."

**Achorn:** right. Just eliminate any numbers that might change in the future.

**Achorn moved to accept the updated employee handbook with the adjustments discussed tonight as the official handbook for the township with a second by Chown.**

**Roll call vote:** yes – Chown, Wunsch, Achorn, Wahl, Sanger, Shanafelt Passed unan

6. Discussion on the adoption of zoning ordinance amendments related to farm processing with potential board action to occur.

**Cram:** at the October 11 meeting, the planning commission and township board held a joint public hearing. Proposed amendments to the Peninsula Township Zoning Ordinance regarding winery-chateaus and farm processing facilities were reviewed, discussed, and

public comment received. After the public hearing, the planning commission made a formal recommendation for the township board to adopt the zoning ordinance amendments as discussed. I want to clarify for the record that, at that meeting, Isaiah [Wunsch] specifically asked our legal counsel, Bill Fahey, if we needed to allow the planning commission to prepare comments to meet the Michigan Zoning Enabling Act. Bill's response was no, that was not necessary. The process that is laid out in the Michigan Zoning Enabling Act anticipates that the planning commission would have a separate meeting, as the planning commission normally does. It meets on the third Monday of every month. The township board meets on the second Tuesday. We are trying to be efficient with time, and we also wanted the planning commission and township board to be able to engage with one another and have a discussion to understand where the other stands on things. We specifically scheduled it as a joint public hearing. As such, the township board was able to hear all the public comment made during the planning commission public hearing. It was not necessary for the planning commission to create a formal report because the township board had already heard all of that information.

**Chown:** if I may interrupt, I want to read from the minutes that we have approved this evening. "Isaiah [Wunsch] asked Bill Fahey, 'Does the planning commission need to submit a written report of the recommendation to the township board?' and Fahey said, 'It does not. It needs to make a recommendation to you. A section was referred to by a gentleman that you've heard earlier that says they need to provide to you a summary of the comments that were made at the public hearing. The context of that section, however, is not applicable when the township board has just sat through the public hearing.'" We are taking the counsel of our attorney, and our actions meet the Michigan Zoning Enabling Act.

**Curt Peterson from audience:** can I rebut that?

**Chown:** No.

**Cram:** in addition, once the planning commission makes a recommendation to the township board, the township board does have the ability to discuss and make additional amendments. Because the planning commission and township board work very closely together, as well as staff, the planning commission is being kept in the loop on any amendments that have been made from October 11 to today. It is part of the public record. Everything has been transparent. We've met all requirements with regard to due process and posting the proposed amendments in a timely manner and allowing for public comments. I wanted to clarify that for the record.

**Chris Patterson:** when you're coming back as the township board having sat at that joint session, the reference is probably section 36 01. But what's particularly relevant to the board this evening is that you also have the minutes that were part of that joint session before you; they were submitted to the board. That includes the summary of the public hearing by having those comments within it. So to the extent that you otherwise believe that 36 01 applies as written, you do actually have a summary of public comments included at the public meeting provided to the board. It's my understanding they were included in the packet so they would have been reviewed by the board members as well.

**Cram:** thank you. Attached to this memo is both a clean and a redline version of proposed amendments to date based on the discussion between the planning commission and

township board as well as written and verbal comments received from the public. I went through all my notes and tried to capture who made what comment and how it was addressed. If Armen [Shanafelt] made a comment, I noted it was Armen's comment, so he could see that his comment had been addressed. Bill Fahey, our legal counsel, is not present this evening. We had in the memo noted that the township board could adopt the proposed amendments this evening. Now we are recommending that any action this evening be tabled to a special meeting where Mr. Fahey can be with us. Right now, we're looking at next Thursday, November 10, at 1:00 p.m., conducting a special meeting with the township board to adopt the zoning ordinance amendment. We can hear some additional public comment and have a clean version that planning commission, township board, and the public can look at prior to adoption.

There are two primary goals for the proposed amendments to the zoning ordinance. The first goal is to draft an ordinance that is legally defensible based on the issues raised in the WOMP lawsuit. We are also updating the zoning ordinance so that the farm processing use is equitable and even handed for all agricultural operators. There is a list of all of the proposed amendments that will carry forward and any legal notice. I want the agricultural community to know that I have vetted the zoning ordinance with Ryan Coffey Hoag, the chair of the advisory committee for the Right to Farm GAAMPS. He gave me approval to provide his comments. He complimented the township on being proactive in amending the zoning ordinance related to processing. As was noted, this is just the first phase of zoning ordinance amendments related to agricultural policies. He made it very clear that the Right to Farm Act applies to the growing, the production of agricultural products, and then the retail and marketing of those products. Processing totally falls to the township and local zoning. He thought the township was actually very generous in allowing processing in the A1 zone district. As is noted in some of the clarifications in the zoning ordinances, processing is not an agricultural production. It is generally an industrial commercial use and not allowed in an agricultural zone district. It would be allowed in the commercial or industrial zone. But because the township supports agriculture and wants to allow for those value-added opportunities, our zoning ordinance has allowed for it and continues to allow for it. He felt that the township is really trying to be fair to all agricultural operators. He found the proposed standards to be reasonable for processing with regard to parcel size and setbacks based on the character of this community and the input the board and community has had with regard to nuisances. He had no concerns with any conflicts with the Right to Farm Act GAAMPS with regard to processing. I plan to continue to work very closely with Ryan and the Michigan Department of Agricultural and Rural Development. Additional amendments will address our roadside stand standards and agritourism. I have requested from the trustees that I have time on the December agenda to start that discussion to bring forward the concepts that we will be looking at for the roadside stands and agritourism. I will continue to meet with agricultural operators. I would like to commit to having those additional amendments before the board for adoption in the first quarter of 2023. It's heartbreaking to hear that some people believe that rights are being taken away or that we're not considering all agricultural operators when this is, again, just one phase. There are many creative things the township can and will support in providing

value-added opportunities for all agricultural operators.

There are six new definitions proposed. One definition is deleted, the definition of “winery.” There are minor amendments to the farm operation, both retail farm processing and wholesale farm processing. We also amended the tasting room to remove the specificity to a winery and make it applicable to all agricultural operations. The first new definition is “active production.” This was based on a comment from Mr. Sanger. It expands what active production means to allow for the generally accepted agricultural management practices, including periodic crop rotation and scheduled fallow farming practices. That was intended to be consistent with the GAAMPS. The second definition is “alcoholic liquor.” That is specific to the MLCC. The third definition is “contiguous.” This was taken from the Purchase of Development Rights [PDR] ordinance, the recent amendment. We added a definition of “entertainment” from MLCC. We updated “farm operation.” We added “farm products,” and that is from the Right to Farm Act. The other definition that was added was “viewshed.” That also comes from the PDR ordinance. I will confirm that we have the up-to-date maps. To my knowledge, those maps were updated. The print version of that was April of 2020. I do know that they are significantly different than what was in the old ordinance, but I will circle back to the PDR study group. I did confirm before we published the PDR ordinance (because that adoption did include the maps and they were in the packet) with Ginny Coulter and the committee that we had the latest versions of the viewshed maps. We'll definitely take a look, and if those need to be updated, we can do that.

**Wahl:** I don't remember discussing the viewshed at the meeting?

**Cram:** that was a comment from Becky Chown. She asked to add something about not allowing a farm processing facility to be located in an established viewshed. I had started with a definition of established viewshed and then Bill [Fahey] looked at it. We located this material in the setback section. When you're siting the farm processing facility, it would not be located in the viewshed.

**Chown:** the *new* farm processing facility.

**Wahl:** we have had buildings in viewsheds before.

**Cram:** it is my knowledge from looking at past planning commission packets that the planning commission recommends and staff recommends, if feasible, to not locate a structure within the viewshed. We would look at alternatives. I believe that the larger acreage requirements would allow for flexibility so that a facility could be sited to avoid a viewshed.

**Wahl:** the hard part is with our setbacks. If the only area that isn't in the setback is in a viewshed, that property can't be built.

**Cram:** not necessarily.

**Wahl:** you can build anything, just not a winery?

**Cram:** no. That is for processing. If the board agrees, it would not allow a farm processing facility to be built in the viewshed. This only relates to farm processing facilities. The PDR ordinance utilizes this in their ranking system. Properties that can eliminate development rights that are in a viewshed score higher. I know that the master plan and other supporting documents talk about how important our viewshed is. It is something we may

look at in the future with future zoning board amendments. This only applies to farm processing. If I could pull up the diagram, there is quite a bit of flexibility on a 20-acre parcel or a 40-acre parcel.

**Wahl:** it gives me pause because other things could be built in that area. Just not farm processing.

**Sanger:** on the planning commission, we reviewed reserved home sights on PDR properties. I seem to remember that we would not allow a reserved home site, one on 20 acres or two on 40 acres, to be in a viewshed as defined by the viewshed map adopted by the town board with PC recommendation.

**Cram:** there is an existing SUP for a winery-chateau that they had to move the location of because of a viewshed.

**Wahl:** okay.

**Cram:** it's been standard practice. We're just codifying it now.

**Chown:** it seemed to me to be missing. One of our stated goals in the master plan, and a clear desire of the community in the 2019 survey, is to preserve the views.

**Cram:** farm processing facilities have the potential to be much larger than a single-family residence, with the ability to go up to 30,000 square feet. So there's a greater impact with the intensity of that use.

**Shanafelt:** it's not just for farm processing facilities. The viewshed is considered for other constructs as well.

**Wahl:** we have homes that are in viewsheds. If we had a 60-acre lot and we broke that into five-acre lots instead, there's one house allowed for five acres. That would be 12 homes in that viewshed potentially, where one processing facility would be less cluttered than 12 homes. That's where I'm caught up.

**Achorn:** we're talking apples and oranges here. You're talking about residential homes. We're talking about processing facilities. Two different types of zoning.

**Wahl:** I'm not disagreeing with that. That parcel could be sold to build 12 homes on it.

**Shanafelt:** not if it's zoned agricultural. Oh, I guess you could build on five acres.

**Cram:** it depends on the parent parcel and how many divisions there are.

**Sanger:** the township decides what the viewsheds are. It's not just a pretty view. It's very analytical. In the PDR program, which is one notch up from a use-by-right home dwelling on five acres, for PDR land, we do not allow the reserved dwelling unit in the viewshed. Bumping up one more with a quasi-commercial operation, namely a processing facility, is in line with that hierarchy of what we don't want in the viewshed relative to the use by right. Start with just a plain old nice view, which is not a viewshed. It has to be deemed within the PDR ordinance. Then we basically restrict the reserved dwelling unit in the PDR ordinance outside the viewshed. It seems reasonable that if we are going to have a processing facility in a viewshed, whether it's on PDR or not, we would restrict that also.

**Wahl:** I get what you're saying. It's an interesting topic.

**Cram:** moving into the wholesale farm processing facility, there was a comment again from Mr. Sanger asking what "majority" meant. That was clarified to note that "At least 70% of the raw produce, sold fresh or processed, shall be grown on land within the township that is exclusively operated."

Then 2 19 (b) ii, we added a provision. "At least 50% of the ingredients of any processed product sold at the wholesale farm processing facility shall be derived from raw produce grown on land within the township that is exclusively operated and controlled by the specific farm operation that operates and controls the wholesale farm processing facility." I would like to address John Wunsch's question about the difference between the 70% and the 50%. The 70% relates to the raw produce that's being processed. It's what's going into the machine. 70% needs to come from that operation. The 50% relates to what's coming out of the machine, what the processed product is. That's the differentiation. That was brought about by a concern that the 70% presented a loophole because then you go back to the acreage requirements of being in crop production. Using the scenario for the wholesale farm processing facility, you have to control 40 acres. 20 acres is where the farm processing facility is located. Another 20 acres needs to be in crop production. If I choose to farm, and I only plant one apple tree, but I do the rest of the acres as something else, and I come in and process my one tree of apples, I can meet that 70% requirement of what's going in. But I could be processing all these other things that might not be from active production here in the township. That's where the 50% was added to address that concern about that loophole. Processing is an industrial commercial use, and to process you should be growing something. Taxing the 70% relates to how agricultural producers have to report through taxes. The 50% relates to the Right to Farm Act and providing those standards. There was another comment from John Wunsch about clarification. As previously written, it suggested you were required to get a liquor license if you were processing. We added a clarifying statement that if alcoholic liquor is proposed to be produced or sold at the wholesale premises, Michigan Liquor Control was required to issue that permit.

Number three, parcel requirements. There was a question from our attorney. I wanted to point out the difference of the different acreages. For the wholesale farm processing as a use by right, you have to have 40 acres that you control. That 40 acres does not have to be contiguous; you just have to control the 40 acres total. The processing facility is constructed on a single parcel that has a minimum of 20 acres. The other 20 acres can be in one parcel or in two. It allows for that flexibility for a new farmer. They don't have to own land, but they have to have that minimum acreage and requirement. It allows them to incrementally obtain that land. The 50 contiguous acres is the requirement for the retail farm processing with indoor retail sales. The farm processing facility has to be located on a single 30-acre parcel. For the 60 acres for retail processing with outdoor seating, you have to have 60 contiguous acres. The facility is located on a single 40-acre parcel with another 20 acres that's contiguous. This is trying to allow for flexibility for new farmers to process if they choose to do that.

Item number 3 ii, Dave [Sanger] presented some compelling discussion about the 65%. We want to make it reasonable for new farmers and other farmers to farm the land the way they want to do it. For the wholesale farm processing as a use by right, we added the ability that "the required 65% of the dedicated 40 acres in active production may be reduced by approval at the township board if an acceptable planting schedule is approved for a time period not to exceed three years during the initial period of operation." In

addition to allowing the smaller acreages for someone who is new to this, it would allow them to create an acceptable planting plan.

Number four, setbacks. Again, it seemed best to put the discussion about the viewshed in the setbacks. An applicant who's interested in doing this is going to look at what their constraints are or where they need to locate the facility. It is consistent for all of the wholesale farm processing and retail processing that no wholesale farm processing facility shall be located within a viewshed as defined.

Number six, pre-existing buildings. For the wholesale farm processing, a comment was made that the language was different between that and the other retail, so we made the language consistent. For pre-existing buildings, the maximum size is the same. It would allow for 250 square feet per acre up to a maximum of 30,000 square feet.

Regarding the hours of operation for retail sales, I have a question for Chris [Patterson]. The question was asked by Ryan Coffey Hoag: what about Sunday sales? Is this something we need to address in our hours of operation on Sundays?

**Chris Patterson:** if you don't have an issue, it is authorized by license. But the interesting question about the liquor code and the problem is that given Judge Maloney's decision, it is best that it be revisited. There was a question for different provisions, how they might be limited or otherwise preempted by Michigan Liquor Control code. There's a little unclarity on how it might apply. First decide if you think it's an issue. If it's a non-issue, then you could allow Sunday sales subject to approval by proper state liquor control code. If the township board has an issue with allowing that type of extended hours, we should probably get back with you before the next meeting.

**Cram:** I would appreciate you looking into that. I did receive some comments from Marge [Achor] with regard to data and records, number 16 for retail processing: "The farm operation operating the retail farm processing facility shall annually, by April 15 each year, provide data and records from the previous calendar year." We will add that to the calendar.

Retail farm processing with outdoor seating, number 11 (b) IX. For consistency, it was noted that "those retail farm processing facilities with outdoor seating that hold a liquor license may *serve* limited food items indoors in the retail sales area" and then later it says, "Limited food items *purchased* indoors may be consumed outdoors." The intent is that someone could come into the indoor tasting room and get their applesauce and crackers and then go sit outside and enjoy it. To be consistent, "purchase" should be changed to "served."

Number seven for outdoor seating area size. Mr. Rudolph had a comment about clarifying tents and canopies. This came up with the existing winery-chateaus when we were talking about temporary structures. During COVID, they had approval to have umbrellas at their tables. Obviously that makes sense. We wanted to add that table umbrellas or permanent shade structures are permitted, but temporary structures including tents and canopies are not allowed.

Revisions made to the remote tasting rooms. These were all amendments to remove the specificity to wineries. It would allow for alcoholic or non-alcoholic beverages. It's very consistent with both the wholesale farm processing and retail farm processing guidelines.

**Shanafelt:** really nice job incorporating the comments from before. I think this is super close if not ready to go. I just caught a single typo in this. I can tell you now or later?

**Cram:** can you email it to me? It would be great to have that.

**Achorn:** 17, data and records, is that where you were going to put “previous calendar year”?

**Cram:** I'll add that consistently for all three. I'm going to go through this again with another fine-tooth comb just to make sure there's consistency through all three of the options. As noted, I brought your comments with me and I've already noted some of the little typo things and have a version to capture those.

**Sanger:** I went through it page by page this afternoon. You picked up comments I made. I appreciate it.

**Cram:** I want to emphasize that this is the first phase. I'm really excited to bring you the options for the roadside stands for agritourism to allow for value-added opportunities for the agricultural community.

**Wunsch:** discussion from the board?

**Wahl:** I won't be here Thursday at 1:00.

**Wunsch:** any last things you want covered?

**Wahl:** no, I think I've said the things I care to say today.

**Shanafelt:** to clarify, the reason for pushing this till 1:00 on Thursday is so you can capture all these little changes?

**Cram:** and also so that Bill [Fahey] can be with us.

**Patterson:** we weren't able to get Bill's final comments and approval this morning relating to a few items. Mostly some minor substitute phrasing. It doesn't have to be Thursday; we just need to coordinate whatever date the township board wants to get together.

**Wahl:** every Thursday I'm gone in Lake City.

**Chown:** I'm sorry about that, Warren [Wahl]. With the election next week, Monday and Tuesday are out and I probably won't be very coherent on Wednesday.

**Achorn:** I think we're awfully close on this. It's almost perfect right now.

**Sanger:** the posting requirements are 18 hours before [the meeting]. Sometime midday on Wednesday we'd have this published so the public and we can see it?

**Chown:** it's a requirement. Yes, absolutely.

**Cram:** we're going to get it out as soon as possible. But absolutely by then.

**Chown:** I have something I'd like to share, an opinion piece from the Record-Eagle from June of 1978. The title is “Cautious Township Plans for Its Future.” [Reads out loud.] “Picturesque Old Mission Peninsula has averted uncontrolled development for ages and its current political leaders seem determined to avoid it in the future. During the past three months, three major residential developments have been rejected by the Township's government. The most recent was a 35-acre development which was thwarted by the townships refusal to grant a rezoning request. Construction that has already taken place on the peninsula has been of high quality. It has been well placed and as a result, it has helped accent environmental integrity. That's why the peninsula is still an attractive place to live. But as long as that attraction holds out, there will be heavy financial pressure to change things, to transform the agricultural areas to residential and commercial

settlements. At the same time, township officials must deal with an increased traffic load on Peninsula drive and center road. They must also decide what areas have to be served by central water and sewer systems. Peninsula township is booming, both residentially and agriculturally at this time. It is in a position to dictate a future of orderly limited growth. It's township leaders seem to know that. They have given clear indication through their actions that their goal is a high-quality environment. Big buck developments or not. Their position is a difficult one. It would be easy to open the gates and let construction proceed until saturation is reached. And to then practice patch up government. Peninsula township has instead practiced preventative government and its residents will receive benefits for years to come." For a variety of reasons, this editorial from June of 1978 really resonated with me. We are in a long-term struggle. Thank you for letting me read that.

**Shanafelt moved to table business item 6 until a special meeting of the town board at 1:00 p.m. on Thursday, November 10, with a second by Sanger. Motion approved by consensus**

7. Waiver request

**Cram:** we have received a request for a waiver from section six of ordinance 2022-06-14 and what is now also Zoning Ordinance Amendment 202 regarding the current moratorium in the A1 agricultural zone. The owners of Bowers Harbor Boat Works would like to amend their special use permit. The property of the subject SUP is zoned A1 agricultural. Attached to this memo is their handwritten request that explains why they are requesting the waiver. There is an office space that was converted to a dwelling that did not go through the SUP amendments. They would like to formalize that. They would also like to discuss the potential of expanding some outdoor storage for their business. Because of the moratorium, that application could not move forward. As we have done in the past, we wanted to make you aware of this waiver request. We would recommend that the board conduct a public hearing on December 13 as has been done for the previous waiver request. We have also requested that they provide additional information that supports the immediate and irreparable harm of waiting to proceed. If you make a motion, then I will do the appropriate public notice.

**Wahl moved to conduct a public hearing on December 13 for [the Bowers Harbor Boat Works] waiver request with a second by Sanger.**

**Motion approved by consensus**

8. Resolution 2022-11-01 #2 authorizing the defense of former director of planning Michele Reardon.

**Wunsch:** you all have the proposed resolution in front of you. For context, there's a risk from some ongoing litigation that the previous director of planning may be deposed. Our general counsel has agreed to help prepare her for that deposition. We discussed it earlier today and feel it would be in the best interests of the township to have that preparation.

**Wahl moved to approve Resolution 2022-11-01 #2, to Authorize the Defense of the Former Director of Planning, with a second by Sanger.**

**Roll call vote:** yes – Wunsch, Achorn, Wahl, Sanger, Shanafelt, Chown **Passed unan**

9. Citizen Comments

**Louis Santucci, 12602 Center Road:** Jenn [Cram] indicated that you have oral confirmation

from your outside counsel that the zoning ordinance you are discussing and planning commission rules and so forth are okay. So that means there's no written opinion. I'd be really cautious about accepting an oral opinion. I'd like to see him put it in writing and share it with the rest of us. The other thing is, I guess the first chance I'm going to have to look at it will be next Wednesday. It seems there have been some substantial changes to the ordinance. It seems to me you guys are getting yourself back into a situation if you pass this next week without having had notice of a public hearing and actually have a public hearing on some of these changes, particularly when you're talking outside of public meetings inside your building. For example, when Jenn [Cram] goes to one of you, in this case Marge [Achor], she makes a recommendation, then all of a sudden it ends up in something we've never seen before that hasn't been subject to a public hearing. It seems to me you guys are running the risk of yet another lawsuit. The final comment I want to make is, yes, I've read all of the motions and all the decisions of the judge. So to Grant Parsons' point, yeah I've read them all. I also note, and I don't think anybody here has made this public, that the judge recently overruled several of the township's motions. So to say this thing is a done deal, which is what Grant Parsons seems to be implying, it's not a done deal. And finally, the appeals court only ruled that the judge's injunction was invalid. It did nothing with the constitutional issues. I guarantee you that basically when those constitutional issues are metered, whether PTP is there or not, the judge is not going to back away from his determination on the constitutional issues. To have the new ordinance basically just fly in the face of those constitutional issues defies reality.

**Chris Baldyga, 9707 Montague Road:** the thing I think is most pressing is the lack of being able to be small entrants into farming. I get the concerns that they could potentially build, because of the building size, a 30,000 square foot facility. But what about the people who want ten acres and a garage lavender processing? They don't want the retail; they don't want people pulling in the driveway; they want to be able to process on site. A small winery may want to do that. I know you say they're coming and we're going to look at that. Just like we want parity with the other farmers, we want to add agritourism to get them the benefits the wineries have. But we're starting with what seems to be really big barriers to entry and removing winery language, the one that has the most acreage protected, the one that has the most current members. You're starting with an axe instead of talking about the ways we can add and invite agricultural entrepreneurs in. We're starting not by planting seeds but by knocking them down. Those things concern me. Farming is something where we talk about a use by right. It's very much an American ideal and out here where farming is so strong, we've still got people doing the classic kind of older style. I think the future of farming, the sustainable kind of modern agriculture, and not always agritourism, is value added. Adding value to the product. Creating more than just what the humble farm itself has by putting a brand on it, doing something small and wonderful, whatever their spin is on the product. We have to allow a way for those agriculture entrepreneurs to be able to start at less than 40 acres. Less than 50 to 60 acres. Those are huge barriers. So few parcels are available, whether contiguous or not. Dave [Sanger], you asked a great question that I still don't think has been properly addressed. How does it serve the township by having those huge acreage requirements? It's so expensive. You're

not allowing a small farmer to be a small processor. That concerns me. I want to hear more about that when you guys talk about this again. How do we allow for smaller than those numbers? Thank you.

**Curt Peterson, 1356 Buchan:** the Michigan Zoning and Enabling Act is pretty short. The section we're referring to is 125-3308. You can all read it; you can Google it tonight. It's two or three paragraphs, and we're not following it. The amendments that are before you tonight were prepared after the meeting. The planning commission did not make that specific motion. All that red came after the planning commission meeting. So that should go back to the planning commission. There was a comment tonight, "Marge made a comment and we included them." Fine, Marge, but you don't have the authority to do that. If you don't like what the amendments are, convince the rest of your board members that you want to have a change and then send it back to the planning commission and instruct them to make the change. That is the proper procedure. You and I can't make a zoning change directly. We have to do it through the planning commission. This was under wholesale farm processing unit, section 6.7.2 19 (b) ii, there's a comment in the side, "Removed after discussion on October 20." What discussion? Who was in that discussion? That wasn't part of the planning commission meeting that occurred on October 11. You're doing things out of order. You can protect this, but send it back to the planning commission and make them approve all those changes in red that you want. That is the way to do this. Thank you.

#### **10. Board Comments**

**Sanger:** this is the second meeting in a row that, if we were to go to closed session, it would be after 10 o'clock at night. I would like the board to consider, when we have a full agenda like this, pulling up the start time to 6:00 p.m. or even 6:30 and immediately go into closed session so we're fresh and our attorney is fresh. It seems to me we'll be more productive to work with our attorney before we've endured three hours of very intense work. It's been a great meeting. Don't get me wrong. But because Mr. Fahey was unable to attend tonight, we would be going into closed session at 10 o'clock. Let's give this some thought; it's just a suggestion.

**Wahl:** I put my son to bed at 7:00 so as close to 7:00 as possible I prefer, but I understand.

**Sanger:** we could still get you by phone if you're traveling, I assume.

**Cram:** I would like to make some comments based on what I've heard. Marge [Achor] did provide written comments, as everyone had an opportunity to submit comments and they would be considered and noted in the comment section whether or not they had been addressed. Marge's comments were, "There's three periods here. You need to add the calendar year." That is why I specifically read those into the record. But I will gladly post what Marge's comments are so that you can all see them. The redlined version specifically addresses everything that was discussed at the October 11 meeting. The planning commission motion was made to the township board that they adopt the zoning ordinance with the amendments as discussed. I believe their motion was appropriate and does allow the latitude for the township board to make changes after they've made that recommendation. We are absolutely looking at the smaller acreages for farm processing to allow those 10-acre opportunities. We're dealing with our existing zoning ordinance as it

relates to a pending lawsuit, trying to make our zoning ordinance defensible so that we can move forward with applications. The board prioritized this over those other things. But as your planner, I understand the importance of that and I have been listening to the community and I'm excited to bring those other things forward.

**Baldyga:** it's the worry that they're not being addressed. It's the first time I've heard this. I mean, we talked about it in a roundabout way.

**Cram:** they're there. There are conversations being had and input received. I plan to present that in a public setting so that the township board can give me, the staff, direction on how to move forward with those policies.

**Shanafelt:** I appreciate you breaking this up into chunks. It's so convoluted. And I think the only way to address it is to start in digestible pieces. This was a good place to start. Trying to do a full rewrite, we'd be talking another decade before that would be approved.

**Cram:** the sections that we broke it into were farm processing, roadside stands, and agritourism. The small farm processing is kind of a combination of things but it allows for simple things like having a commercial kitchen so that you can turn your strawberries into jam and pies and things like that.

**Chris Patterson:** with respect to the zoning and amendments that post a recommendation from the planning commission, the township board does have the ability to adopt the zoning ordinance with or without amendment. That is in the act. With respect to those comments about revisions post recommendation, that would be consistent with the Michigan Zoning and Enabling Act. This is entirely traditional and practiced throughout the state of Michigan.

## **11. Adjournment**

**Wahl moved to adjourn with a second by Sanger. Motion approved by consensus**

**Meeting adjourned at 10:05 p.m.**