

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686
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Citizens' Committee to Address Winery Lawsuit Meeting Minutes

November 2, 2021, 10:00 a.m.
Township Hall

1. **Call to Order:** 10:05 a.m. by Manigold

2. **Pledge**

3. **Roll Call:** Present: Venegoni, Rudolph, Gartland, J. Wunsch, Manigold, Eaton, I. Wunsch, Jacobs

4. **Brief Public Comments:** none

5. **Approve Agenda:**

Manigold: these are the additions to the agenda: the summary of citizens' concerns relating to the WOMP lawsuit and demands (see attachment), minutes from the last meeting (see attachment), and a letter from Mr. David Taft (see attachment).

Moved by I. Wunsch to approve agenda as amended, seconded by Rudolph

Roll call:

Passed unan

6. **Conflict of Interest:** none

7. **Consent Agenda:**

Moved by Rudolph to accept consent agenda, as presented, seconded by I. Wunsch

Roll call:

Passed unan

8. **Business:**

1. Review claims in lawsuit.

Manigold: gave summary of the last meeting of the citizens' committee. Read the motion from the township board special meeting on October 6, 2021: "Moved by Bickle to reject the settlement proposal as presented, due to the fact it is an all or nothing proposal. Further direct the negotiating committee to approach plaintiffs to form a citizens' committee to work through the issues raised by WOMP in a public process that will end the lawsuit as a community decision," seconded by Wunsch, passed unanimously. The meeting today will focus on the eight points related to the WOMP lawsuit. Manigold, I. Wunsch, and Chown were in the negotiations. Community input will be considered in the negotiations. Following this discussion, the group formed will become a planning commission committee to work to change the ordinances that allow more agricultural uses. The agricultural community and WOMP will be asked for input.

Rudolph: presented handout with a summary of citizens' comments relating to the lawsuit and demands.

Manigold: asked for a consensus to go to the planning commission. Noted that, in addition to the wineries, agriculture includes cut flowers and lavender.

Jacobs: reviewed the summary. Remarked that there is overwhelming citizen support to oppose the winery lawsuit.

Discussion of the 2:00 a.m. closing time proposed by the winery lawsuit.

Manigold: most wineries are closed by five, six, or seven; Bonobo is open until 9:30 p.m.
Questioned the reasoning behind the 2:00 a.m. closing request.

J. Wunsch: This relates to weddings and events.

Rudolph: this might have come from the Michigan Liquor Control rules that state they may stay open until as late as 2:00 a.m.

Discussion of how many grapes from the peninsula are used in wine produced on the peninsula.

J. Wunsch: the community needs to see more land in agriculture.

Gartland: if the weather is bad (for the season) can outside grapes be brought in?

J. Wunsch: if there is a bad year, outside grapes can be brought in; it is in the ordinance.
For guest activities, local grapes (appellation) must be used. The community benefits.

I. Wunsch: according to state law, a small business can label wine.

Rudolph: appellation should be put on the bottle.

J. Wunsch: eighty-five percent is the percentage for appellation.

Discussion of the evolution/history of appellation, initially brought forth by the wineries, which established Old Mission Peninsula as a growing region.

J. Wunsch: everything has been brought in by the winery owners; farm processing came from the backlash. Reviewed the history of farm processing and appellation.

Manigold: remarked on the history of the wineries on the peninsula. Discussed use by right, designed to open it up for everyone; said the wineries are currently experience growing pains.

J. Wunsch: the size of production facilities became too restrictive; an expansion of production facilities was passed in amendment 139.

I. Wunsch: the square footage of the processing area is already unlimited. Traditional zoning will prevail, and the lawsuit prevents local policymakers from looking for creative solutions. The state laws would be much more restrictive. When it goes to the planning commission, the process will be more productive.

Discussion of hours of operation

Venegoni: hours of operation up to 2:00 a.m. are in the wineries' licenses. The intention not to hold these hours is not guaranteed.

Eaton: up to 9:30 p.m. is acceptable; not beyond that.

Jacobs: Bingham and Leland townships have ordinances that provide limitations to hours of operation – some close at 10:00 p.m. – and state that indoor and outdoor activities have rules around them.

J. Wunsch: gave examples of cooking classes for agricultural groups, brunches for non-profits. If indoors, okay. But bending the rules, such as running restaurants, creates danger on the roads. The rework will provide a clearer document that is easy to enforce. Objects to a 2:00 a.m. closing time.

Jacobs: when read through the citizen letters, the number one objection was hours of operation. Does not support 2:00 a.m.

Gartland: said 2:00 a.m. is not appropriate. 9:30 p.m. is the ordinance;, why are they not open until 9:30 p.m.?

I. Wunsch: the consensus is to not give in or give in very little on this issue.

Discussion

Venegoni: clarified that these events need to be inside the premises.

Manigold: SUPs are given for things like dining in the vines; many wineries have patios.

I. Wunsch: moved discussion to point two, the unlimited use of outside grape suppliers.

Venegoni: concerned they price the grapes.

J. Wunsch: using it for the purpose of agricultural interstate commerce. If you are bringing stress on the infrastructure and the community, the key natural values are to then encourage additional agricultural use of the land, not the pricing of grapes.

I. Wunsch: there is an oversupply of grapes in California so it is a lot less expensive to bring juice/wine in.

J. Wunsch: this reduces the need to keep land in/available to agriculture.

Jacobs: to allow wineries to get outside juice in a soft year is acceptable, but in a regular year it is bad for competition.

J. Wunsch: this is fueled by sneaking events and restaurants. The model cannot be sustained by local grapes. Events with large events will require grapes from outside the area.

Discussion of wineries uses of local versus outside grape juice.

Manigold: believes the topics of events, what constitutes a small plate, and amplified music are the main topics.

Gartland: these can't be done under agriculture.

Rudolph: Leelanau County has a section of special events independent of the wineries in their ordinance with restrictions on the event.

Manigold: lavender, cut flowers, or farm stands can have festivals as well. Discussed township-wide events that have occurred in the past such as Blessing of the Blossoms and others.

J. Wunsch: for point three, the WOMP proposal of no restrictions on meetings and events: look at Leelanau County townships or a state of Virginia township ordinances where the uses/events are carefully limited and reasonably worked out. Discussed guest use from the previous ordinance.

Venegoni: how were the "who" (groups) determined that could participate in the meeting/event?

J. Wunsch: natural guardrails are up when choosing non-profits for meetings. Agricultural groups support agriculture; this limits both impact and conflicts with standard agriculture practices. It also expanded awareness of the brand and avoided natural conflicts such as spraying.

Manigold: summarized limit on commercial use in the agricultural district. That is a central thread; wineries were an extension of that.

Eaton: the main point of focus is the unlimited events.

Gartland: they want all of this under agriculture. Do they actually want commercial zoning?

I. Wunsch: there has never been a request for commercial rezoning.

Jacobs: referenced Michigan Liquor Control. There are boxes on the application for events or a restaurant, but that does not carry a requirement for a local ordinance to be allowed.

Venegoni: an example would be a farm stand; there is a need to coordinate licenses from the state with local ordinances.

Jacobs: there are only four class C liquor licenses in the township. Small wineries cannot operate as such.

I. Wunsch: class C overrides a large amount of local zoning control and pre-empts a lot of local control. The legal question is whether preemption to class C holders also applies to small wineries/brewers.

Manigold: inside use may be acceptable; outside use can disturb neighbors close by. Residential neighbors must be taken into account.

Discussion of larger space and the ordinance.

Manigold: summarized merchandise under the current ordinance.

Rudolph: there are natural limitations from the fire department and the health department for public safety. Brought up an increase in traffic from large events.

J. Wunsch: commercial taxes are on the building only.

Discussion of catering, restaurants, food trucks, and commercial kitchens relating to weddings and receptions.

Venegoni: Leelanau County, Bingham, and other townships have a set number for events held through a SUP process.

J. Wunsch: this can be accomplished through enforcement and fees for each event.

Manigold: referenced the marathon held in Peninsula Township as a safe environment through the use of a SUP.

J. Wunsch: the next point to consider is that the majority of the produce for the farm processing facility must be grown on the specific owned and operated farm operation. Fairfax, Virginia, gives an initial start-up period for production. In [Wunsch's] opinion, when restricted to OMP appellation, that period can be filled with other grapes from Old Mission. They now need to grow a majority in the initial years. Acreage is needed for the viability of agriculture. More discussion should take place on this topic.

Discussion of acreage.

Venegoni: would the amount of land be changed?

Manigold: right now it's fifty acres for a chateau, forty acres for use by right, and twenty acres for farm processing.

Chown: They want to bring the requirement down to five acres.

I. Wunsch: that was included in the complaint.

Manigold: is it easier for the group to look at a new ordinance or change the old one? All use by right SUPs are different. Commented on trip generation, considered years ago on the peninsula. It was decided that no more commercial expansion was the answer. Gave examples of lawn services and delivery trucks. When looking at the presence of alcohol in a winery tasting room, the wineries have trained staff. In addition to wineries, farm stands, lavender, and cut flowers are agricultural uses that need to be considered.

J. Wunsch: the committee has given enough information for this matter to move to a planning commission sub-committee. Hold the line with the legal negotiations.

Venegoni: commented on agricultural spraying and its effect on nearby homes and buildings. By this, events need to be indoors.

2. Discuss how to address claims and provide proposal

I. Wunsch: this committee can be folded into a planning commission sub-committee to look at the winery ordinance, agricultural zones, use by right, farm stands, and nurseries.

Discussion.

9. Citizen Comments:

David Merrell, 2046 Phelps Road: appellation should be used appropriately. A special use fee of seven to ten thousand dollars should be charged per event. Questioned the assertion by the OMP wineries that they do not make enough money.

Grant Parsons, 6936 Mission Ridge: Minnesota is a case where the lawsuit occurred in a different circuit court that is not binding on ours; the appellation there is for the entire state. That's different from Old Mission Peninsula. Viniculture/appellation is in the code of the federal register and refers specifically and exclusively to the peninsula. Regarding the hours, if we give a zoning concession for winery owners, it would apply to all; this is a worst possible risk. What would be created with new wording would have to go through a court test. Finally, regarding outside operations and keeping guests indoors, the consideration is buses, lighting, and cars for example.

David Taft, Neahtawanta Road: referred to the last slide of his submitted PowerPoint. A zoning ordinance can be written with the existing regulations.

Chown: corrected the wording of points six, seven, and eight under "B" of the summary provided to the committee. Noted that these points are encompassed in the other issues that residents are extremely opposed to even though these points weren't specifically articulated. Noted that it isn't just a few citizens who are opposed to these items; many are, just like the other points.

J. Wunsch: agrees. Points six, seven, and eight are points that prevent explosive growth. While not that many comments referenced points six, seven, and eight, the previous points are managed by these points, so they are very important.

Deeren: several wineries are in the works for the township and the farmers have committed to planning with the rules in place. The success of the wineries does not carry over to the farms; they need to stay in agricultural use.

Julie Alexander, 4956 Forest Avenue: questioned the set of ordinances that the lawsuit covered.

J. Wunsch: there was no change in the wineries section.

Manigold: the wineries and short-term rentals were left out of the rewrite.

I. Wunsch: this citizens' advisory committee will reform as a planning commission subcommittee. The purpose is to add a few more seats and more opportunities for public input.

10. Next Meeting Date: TBD

11. Adjournment:

Moved by I. Wunsch to adjourn, seconded by Eaton.

Passed unan

Adjournment at 11:58 a.m.