

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

www.peninsulatownship.com

Township Board Special Meeting Minutes

November 18, 2021, 7:00 p.m.

Township Hall

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

2. **Pledge**

3. **Roll Call:**

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

Absent: Wahl

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

Monnie Peters, 1425 Nehtawanta Road: commended Dave Sanger and Christina Deeren for taking on the zoning ordinance rewrite and bringing it to where it is today. There aren't many mistakes in it, we are in a position to approve it at long last, and since it is a living document, we can immediately begin improving it.

Nancy Heller, 3091 Blue Water Road: seconded Monnie. Wants to pass the rewrite but immediately revisit it, as certain problem areas remain that need attention and are worrisome, such as the definition of "poles." Do you have to pay a permit fee and fill out an LUP to put up a mailbox? A flag? A tent? Does TC Light & Power have to have a permit and pay a fee to put up telephone poles? Is worried the language as written will create a lot of legal non-conforming structures.

Bickle: we have a good product and will have a public hearing next month to continue accumulating the concerns residents have.

Curt Peterson, 1356 Buchan Drive: also commended everyone but is concerned that the township pass the zoning ordinance correctly according to Michigan state statute without missing any necessary steps that might lead to legal problems down the road.

5. **Approve Agenda**

Chown: asked to move item 1 under the business agenda to number 7 and move the other items up one place.

Motion approved by consent.

6. **Conflict of Interest:** none

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

1. Invoices (recommend approval)

2. Reports

A. Grand Traverse County Sheriff Daily Officer Summary for September 2021 and October 2021

B. Grand Traverse County Sheriff's Office Citation, Accident, and Arrest Statistics for October 2021

C. Peninsula Township Fire Department for October 2021

D. Peninsula Township Ordinance Enforcement Officer for October 2021

E. Cash Summary by Fund for October 2021

F. Peninsula Community Library for November 2021

3. Minutes from October 6, 2021, Township Board Special Informational Meeting; October 12, 2021, Township Board Regular Meeting; October 18, 2021, Township Board Special Meeting; October 20, 2021, Township Board Special Meeting; October 27, 2021, Citizens' Committee to Address Winery Lawsuit; and November 2, 2021, Citizens' Committee to Address Winery Lawsuit
4. Signage request from Old Mission Women's Club regarding its annual Christmas Cookie Sale scheduled for December 11, 2021
5. Traverse City Light & Power contract renewal
6. Fire Recovery EMS billing contract
7. Resolution no. 2021-11-18 #1 in support of school choice week
8. Letter from Peninsula Township Supervisor Rob Manigold responding to the Wineries of Old Mission Peninsula's (WOMP's) recent editorial in the *Old Mission Gazette*
9. Letter from Mediator Joseph E. Quandt with Kuhn Rogers PLC regarding mediation between Peninsula Township and WOMP
10. Correspondence
 - A. Karen Rieser
 - B. Shelley Cowan
 - C. Jim Linsell
 - D. Lauri Gartner
 - E. John F. Bedick
 - F. Sally J. Erickson
 - G. Fire Chief Fred Gilstorff
 - H. James and Lauri Gartner
 - I. Chris Rieser
 - J. Joan Hayden

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

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

Passed Unan

8. Business:

1. Peninsula Farms' request to rescind SUP (Deeren)

Deeren: explained that the petitioner, Sean McCardle, is asking to have his SUP rescinded.

McCartle: reiterated that he would like to have the SUP rescinded.

Wunsch moved to rescind the Peninsula Farms' SUP as requested with a second by Chown.

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

Passed Unan

[Note: after the meeting, former planner Randy Mielnik explained that Peninsula Farms' plans were not in the form of an SUP and that the development was for a condominium subdivision.]

2. Presentation on the newest version of the Peninsula Township Zoning Ordinance (see full text online at www.peninsulatownship.com); consider removing from the table and scheduling a public hearing for December 14, 2021 (Sanger and others)

Motion to remove the newest version of the Peninsula Township Zoning Ordinance from the table approved by consent.

Sanger: presented the history of the zoning ordinance rewrite and the recent effort by various township residents, including Monnie Peters, Nancy Heller, Dave Edmondson, and Lew Seibold, as well as he and Deeren, to address concerns in the rewrite. Discussed the chart he and Deeren prepared to track the

concerns and explained how these problem areas have been handled to date.

Bickle moved to schedule a public hearing on December 14, 2021, for the revised Peninsula Township Zoning Ordinance, seconded by Wunsch.

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

3. Presentation of the revised Peninsula Township Master Plan via the Master Plan Steering Committee (Manigold and Shipman)

Shipman: it's state law that the township seek administrative action. This doesn't indicate approval of the master plan; this is approval to distribute the master plan as explained in the memo; approval will come later.

Randy Mielnik, former planner: thanked the many individuals who worked to draft the new master plan. It must conform to the Michigan Planning Enabling Act. Summarized the plan chapter by chapter, emphasizing how the master plan seeks to reflect Peninsula Township's special character and implement the results of the community survey taken in fall 2019. Discussed the 12 vision elements in the survey and how the online engagement tool Participate Old Mission allowed the steering committee to move ahead with its work in the teeth of the pandemic. Noted that land use, transportation, and places, facilities, and governance will continue to be topics that require attention.

Manigold: former planner Gordon Hayward flagged the Red Tart Cherry Inventory as missing. Asked to have it added to the draft document before distributing it to neighboring jurisdictions.

Mielnik: agreed to add that document.

Sanger moved to approve the distribution of the draft master plan for review and comment to the entities described in the Michigan Planning Enabling Act, seconded by Bickle.

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

Wunsch moved to adopt the following resolution (hereafter called Resolution 2021-11-18 #4) with a second by Sanger: whereas the Peninsula Township Master Plan Steering Committee and Peninsula Township Planning Commission have prepared a draft master plan for review and consideration; and whereas according to the Michigan Planning Enabling Act, a legislative body must assert the right to approve or reject a proposed master plan by resolution; be it therefore resolved that the Peninsula Township Board of Trustees hereby asserts its right to approve or reject a master plan after approval by the Peninsula Township Planning Commission.

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

4. Resolution 2021-11-18 #2 to amend Resolution 2021-02-09 #1 to read as follows: Amendment to a Resolution to Amend a Conservation Easement – Mannor Properties LLC request (Manigold)

Manigold: briefly discussed the amendment.

Chown moved to approve Resolution 2021-11-18 #2 to amend Resolution 2021-02-09 #1 to Amend a Conservation Easement for Mannor Properties LLC with a second by Bickle.

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

5. Chateau Chantal request to use igloos this winter

Manigold: reminded the board that it approved the same request last year during the pandemic and thinks it's a good idea to do it again given that we are still in the pandemic.

Sanger: discussed the fact that we are not currently under a capacity limitation by the health department or state of Michigan and that it could be very difficult to determine whether or not the facility is abiding by its guest restrictions; might the additional capacity allowed by igloos mean the winery would allow additional guests beyond its legal capacity? Feels this could become a problem legally and could be

difficult to enforce.

Bickle: reminded the board of the history of allowing the use of igloos and tents during the pandemic and the difficulty of getting several of the wineries to take them down.

Wunsch: agreed that it could be a problem legally if we set a precedent by allowing igloos when we are not under a capacity limitation from the health department or state.

Chown: if such a ruling were to occur, tomorrow, next week, or next month, would like the board to move quickly to approve the use of igloos as it did last year.

Bickle: the board would most definitely move fast.

Board discussion occurred.

Sanger moved to deny Chateau Chantel's request to allow the use of igloos as well as temporary structures and tents at this time with a second by Achorn.

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

Passed Unan

6. Winter taxes, December 1, 2021 (Bickle)

Bickle: explained the history of the township operating millage of 1 mil, which took effect in 1974. Then in 1978 the Headlee Reduction Act was passed in the State of Michigan. Fast forward to current day. The upshot is, we have been operating with a declining millage. Specifically, of 24 million in taxes collected last season, we get 2%, which is about \$484,000, just under \$500,000, to fund the township general operations. We also have state revenue sharing, but it changes year by year based on sales tax dollars collected. Simply put, we don't know what will take place (dollars projected to be received) one year to the next. This action will allow us to get up to speed with all the other townships as we should have done years ago. The peninsula is changing and continues to grow, thus putting a big strain on planning, zoning, and other services. The potential needs will also continue to grow as more people move here. This township looks very different than it did 43 years ago. We visited with our auditor to discover if we are missing something/anything and to please advise us based on their knowledge of other townships. What came out of the meeting is that we should be facilitating the 1% administration fee (not to exceed 1%) to offset the cost of assessing property values, collecting tax levies, and overseeing the review and appeal process. Thus, the resolution before us based on MCL 211.44(3) is that we are implementing the property tax 1% administration fee to offset the cost of assessing property values, collecting tax levies, and in the review and appeal process.

Bickle moved that town board accept and pass Resolution 2021-11-18 #3 Property Tax Administration Fee with a second by Achorn.

Roll Call Vote: Sanger, Wunsch, Achorn, Chown, Manigold, Bickle

Passed Unan

7. Update on the winery lawsuit

Meihn: we are proceeding with finalizing the remaining depositions. Hope to complete discovery before Thanksgiving so we can move into the process of having motions heard and resolve this matter through the citizens' committee or by the judge finding in our favor. The court has ruled that there was no settlement agreement as was alleged by WOMP and plaintiff's lawyer. We have asked for an evidentiary hearing in this matter as it relates to sanctions and the court will set this. Hopes to hear from the citizens' committee on the status so can respond to plaintiff's counsel with some kind of resolution. Would like someone from that committee to report to the town board once a month.

8. Request by counsel to hold a planning commission training session

Meihn: would like to answer questions he has been asked by the planning commission. Was not able to make the planning commission meeting earlier this week.

Wunsch: updated Meihn and the board on the progress of the citizens' committee. This committee has met twice and has kept chairs open to members of WOMP, but WOMP has not chosen to send anyone. Have moved the citizens' committee to a sub-committee of the planning commission. This new committee will look at how to make changes to ordinance language in regard to ag as a whole inclusive of the wineries.

2. Citizen Comments:

Curt Peterson, 1356 Buchan Drive: reiterated his concern that the changes to the zoning ordinance need to go through the planning commission before coming to the township board. Does not think residents have the right to make changes to the zoning ordinance. Would like a legal opinion and to know that the changes are being approved by the book.

Board discussion. Board agreed to ask legal counsel for an opinion on this matter.

3. Board Comments:

Manigold: discussed a violation of the PDR ordinance on the corner of McKinley Road and Center Road with the planting of trees by property owner Mr. Brown. He did get permission to plant the trees from MDOT, but the PDR easement that he signed before he bought the property says no vegetation is allowed; this is to keep the scenic view and full visibility on this busy intersection. One of the neighbors said as many as seven people have been killed on that corner. The trees have to be moved, but today, Mr. Brown asked Sally if he could wait until spring to move them.

Board discussion. Consensus is that Mr. Brown has to move the trees now because the township cannot take the chance of someone being injured due to sight limitations caused by the trees.

Adjournment: Bickle moved to adjourn the meeting with a second by Sanger.

Passed Unan

Meeting adjourned at 8:19 p.m.