

# PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

[www.peninsulatownship.com](http://www.peninsulatownship.com)

**Township Board Special Meeting**

**November 19, 2019, 7:00 p.m.**

**Township Hall**

**Meeting Minutes**

1. **Call to Order** by Supervisor Manigold at 7:00 p.m.
2. **Pledge**
3. **Roll Call:** Sanger, Bickle, Manigold, Chown, Achorn, Wunsch, and Wahl present
4. **Brief Citizen Comments (for agenda items only):** None
5. **Approve Agenda**

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

**Passed Unan**

6. **Conflict of Interest:** None
7. **Consent Agenda:** Any member of the board, staff, or the public may ask that any item on the consent agenda be removed and placed elsewhere on the agenda for full discussion
  1. Invoices (recommend approval)
  2. Reports
    - A. Peninsula Township Fire Department for October 2019
    - B. Peninsula Township Ordinance Enforcement for September and October 2019
    - C. Treasurer's cash report by fund for October 2019
    - D. Grand Traverse County Sheriff daily officer summary for September 1, 2019–Sept. 30, 2019
    - E. Peninsula Township Parks Committee via approved minutes from regular meeting on October 2, 2019
  3. Correspondence:
    - A. Jerry L. Ostlund
    - B. Sherrie Martin
    - C. Grant and Terry Carrithers
    - D. Ellen Kerr, Mission Point Lighthouse Friends
  4. New community police officer (CPO) in Peninsula Township
  5. Minutes from September 25, 2019, special township board meeting, October 8, 2019, regular township board meeting (recommend approval), October 21, 2019, special township board meeting, and November 6, 2019, township board special meeting
  6. Resolution to create a complete count committee (CCC) made up of Rob Manigold and Becky Chown in preparation for the 2020 Census (recommend approval)

**Achorn:** Requested a spelling correction in the November 6 minutes on p. 2 (Minm Enterprises).

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

**Roll call:** Passed Unan

## 8. Business

1. Update on work at Mission Point Lighthouse and meeting with SHPO (State Historic Preservation Officer) representative Bryan Lijewski (Schultz)

**Schultz:** Has served as lighthouse manager for the past four years and was asked to take the position because of her marketing background. The keeper's roll is important to the success of the lighthouse since the lighthouse is open 49 hours a week and she is only paid for 28 hours a week. Having this program saves the township around \$50,000 in salaries a year. For eight years prior to this program, nothing was accomplished in terms of maintaining the lighthouse. The first project to be completed was the bathroom, which had water issues and wet carpeting. The bathroom was remodeled for around \$4,000, a project that was approved by the park commission. The next big project is to update the kitchen, which has not been improved since the 1960s.

[Gave a slideshow presentation to show the current status of the kitchen and what the proposed remodel will look like.]

**Schultz:** Would like to remodel the kitchen with an updated but traditional look. Has been receiving quotes for this project since February 2019 and has presented these to the board for the new cabinets, tile, stove hood, sink, and other items. In 2012, the historic structure report was conducted by Ken Czapski [principal architect with Sanders & Czapski Associates, which specializes in the preservation of lighthouses and other historic buildings]. One of the suggestions in his report was to make the lighthouse look like it did in 1910 with shutters, doors, and matching windows. [Showed a picture of the lighthouse.] These are the only windows that have not been replaced. We are working with Ken to write up the specs to keep these in compliance with SHPO. We have also been in contact with Mihm Enterprises, which works specifically with lighthouse preservation. The Old Mission [Peninsula] Historical Society is willing to pay for the shutters to be replaced. We are also looking to replace the white fence, which is unpaintable due to water saturation. This fence is almost 300 feet long and will be replaced with a duplicate fence. The memorial posts are rotted at the entrance of the park. These will be replaced with rocks that are being donated. There was a boathouse at the beach that [Schultz] would like to see rebuilt. We have access to some old historic barn wood, so specs are being received for this project to make it look authentic for the 150th anniversary. In August of 2020, we are hosting the lighthouse's anniversary. There is a garage on site which is not historical. Older photos show that a barn once stood in this location, and it would be good to replace the current garage with a barn. There is money in our accounts for us to be able to get some of these projects started. We had another good year, and every year we have done a little better. The goal this year from the shop was \$200,000.00, and we took in \$207,000.00, which beat last year at \$180,000.00.

**Chown:** Please clarify where the funds are coming from to pay for the shutters.

**Schultz:** The Old Mission Historic Society. They offered to pay for the shutters.

**Chown:** They are using the money from the dissolution of the Friends of the Lighthouse.

**Schultz:** Yes, the funds are from the Friends of the Lighthouse group.

**Chown:** Thanked both organizations for their support and donations.

**Manigold:** Marge, Becky, and [Manigold], as a township committee, along with Laura Johnson and Chris Rieser from the historical society and Pete Dahl from the parks committee, have been meeting at the lighthouse with Ginger once a week to discuss issues and meet with contractors to review the things that need to be restored for the 150<sup>th</sup> anniversary. We have some things that can be accomplished right now. The shutters can be put up in the spring. We have contractors who work well with SHPO. We are asking for some money but a not-to-exceed amount. We have discussed a new generator. We are asking for money to complete the kitchen work, fence, and Veteran's Memorial. We would like to get the initial projects moving before winter. We are still working on the plans for the barn and boathouse.

**Moved by Chown to approve the bid from Oliver and Company for up to \$6,000.00 to take down and redo the fencing around the lighthouse, to approve the purchase of the cabinets, stove hood, backsplash, and farmhouse sink for up to \$10,000.00, to authorize hiring a contractor for up to \$10,000.00 to install the cabinets and other items, to authorize up to \$3,500.00 to purchase and install countertops, to approve up to \$1,500.00 to pay for a n electrical inspection to make sure the current system can handle the new generator, and to approve the expenditure of \$1,000.00 to move rocks to the Veteran's Memorial for a total not to exceed \$32,000.00, seconded by Achorn.**

**Roll call:**

**Passed Unan**

2. American Planning Association Award in recognition of Peninsula Township's Purchase of Development Rights Program (to read the audit of the township's PDR program, visit the township's website at [www.peninsulatownship.com](http://www.peninsulatownship.com), click on "Departments/Services," then on "Planning," and scroll down) (Mielnik)

**Mielnik:** Every year, the Michigan Association of Planning, which is a chapter of the American Planning Association, recognizes outstanding planning efforts in Michigan. In the spring of each year, they ask professional planners to nominate projects from around the state from various categorizes. It was discussed that we nominate Peninsula Township for an award for the PDR program. [Mielnik] has prepared award nominations before and felt that the township has a good program. A brief history of the program was prepared, outlining the early efforts to implement the program that go back to the 1980s. Letters of support were gathered from John Wunsch and the Grand Traverse Regional Land Conservancy, the Grand Traverse Conservation District, and Networks Northwest. Our award was submitted under the category of environmental planning. This past summer, we received notification that we won the award in this category. The award was presented at the annual conference for the Michigan Association of Planning held in Kalamazoo. Gordon Hayward and Chris Sullivan from the Grand Traverse Regional Land Conservancy plus [Mielnik] attended the banquet and received this award. This was a proud moment for Peninsula Township as it showcased not only the success of the PDR program but also the commitment to community planning that helps preserve the rural atmosphere that is enjoyed here. The jury comments about the

award included the fact that Peninsula Township was an early innovator in the use of PDR and since then has been methodically implementing this tool for the township's community vision. The jury appreciated how this tool was tailored to the township's agricultural market and business needs. This included adjusting government policies, including zoning, to integrate this tool into everyday work. This submission could easily also have been a winner in the implementation category because of its innovation, effectiveness, and results.

[Mielnik] congratulated Peninsula Township for receiving this award that is well deserved.

**Manigold:** Introduced Gordon Hayward and the people who were dedicated to seeing this preservation plan through. It all began with Gordon Johnson in 1988, who knew about this program. Once [Manigold] was elected into office, the process for getting the program up and running began. Presented the award to the public and thanked Hayward.

3. Approval of agreement for remittance of 2020 winter property taxes to the Grand Traverse County Treasurer (Bickle)

**Bickle:** No resolution has been updated since 2007. There are a lot of investments tools available to townships to invest in. Peninsula Township currently has FDIC accounts that earn up to 2% interest, which has been a nice return. Looking to secure that those funds stay with the township, which has been confirmed, so this resolution/agreement is to acknowledge that we are able to keep our interest income and that the county also agrees with this. This is just a vote to approve this.

**Moved by Bickle to approve the agreement as presented as it pertains to the remittance of property taxes with the township able to retain any interest income earned, seconded by Wunsch.**

**Roll call:**

**Passed Unan**

4. Discussion of 2016 Grand Traverse County Road Commission commitment letter to Peninsula Township (Bickle)

**Bickle:** Has been closely following the Grand Traverse Road Commission because of monies owed to Peninsula Township that are still outstanding with the special assessment districts. We know they owe it, and they know they owe it, but we felt it was important to put into the minutes the original agreement letter dated 2016 from the road commission to Peninsula Township. This eliminates the question of whether they owe us money or not, which was answered by their commitment letter. When the projects were scoped and developed with the assistance of Gourdie-Fraser (GFA), it went from being a \$200,000.00 commitment from the road commission down to \$180,000.00. We were fortunate through the efforts of GFA to ensure these projects were completed satisfactorily. The final balance was \$165,267.00. Jennifer Hodges of GFA has outlined 12 points on which she has made contact with the road commission as it pertains to these items. This could be viewed by the average person as inefficiencies with the Grand Traverse County Road Commission given the variety of projects that were not completed, which they omitted in their interview with the Traverse City *Ticker*.

**Sanger:** Is troubled by the agreement. The street he lives on was part of one of the special assessment districts, the community on Braemar Road. They worked together in good faith

to undertake the project, complete the project, and pay for the project, and to hear that the road commission three years after the completion of the project still has not paid its portion of the cost is disturbing. As a taxpayer of the community and the project, wonders why we would not issue a bill with a penalty. This is an unpaid debt. Would like to see some closure on this issue.

**Bickle:** We will see where this lands. If it gets to the point where we need to seek legal options, then we will assess it at that time. Right now, we are not trying to be adversarial; we are just asking them to fulfill their commitment.

5. Discussion of Resolution and Request by the Peninsula Township Board of Trustees to oppose the transfer of M-37 from MDOT to the Grand Traverse County Road Commission (Bickle)

**Manigold:** We are advising in this resolution our disagreement with the Michigan Department of Transportation giving control of M-37 over to the Grand Traverse County Road Commission. We have experienced different things, including the tree cutting that occurred along Peninsula Drive and on Bluff Road. We informed them at the time that the removal of that vegetation could cause serious erosion issues. Warren Studley provided a report on this and how the road would eventually dissolve into the lake. We thought this would take longer, but with the rise in the water levels, it's occurring more quickly. We thought this was important to add to the resolution. Included in the resolution is that Peninsula Township was never asked or informed that control of M-37 would be given to the road commission. As you can see in the letter, a serious amount of money will be paid for this road by the state. These funds can be used elsewhere in Grand Traverse County and would [no longer] be specifically earmarked for M-37. We have received a lot of phone calls from residents as the snow is beginning to fall for roads not being plowed adequately. [We do not like the idea that this proposal] could take more money away from M-37.

**Bickle:** M-37 needs to stay with MDOT as the lighthouse property is still a state park. Would like to see the agreement between the county road commission and MDOT suspended until the real facts are in front of us on this situation.

**Manigold:** This is also a heritage road, which is a legislative act and requires certain things that [Manigold] believes were not followed as communication with the township did not occur.

**Bickle:** There was an oversight in one or both of these entities with regards to misinformation and miscommunication. This needs to be halted until everyone can come to the table and agree to the terms of the road being switched to county control. As residents and taxpayers, almost \$700,000.00 a year in millage tax is collected and distributed to the road commission. So if they are going to receive this bundle of money, then they cannot double dip on this unless they are willing to forego the millage.

**Wahl:** Noted an error on page one of the resolution.

**Chown:** Read resolution out loud.

**Moved by Manigold to approve the resolution as amended, seconded by Wahl.**

**Roll call:**

**Passed Unan**

6. Update regarding completion of review of clerk's office and transition, request for action to be taken on ordinance violations, and potential closed session pursuant to MCL 15.268(e) (Meihn)  
**Meihn:** Provided the board with an update on several issues still pending with the township. The first is a house that was destroyed by fire and burned to the ground in 2018. The insurance agency along with the property owner have failed to rectify the situation and clean up the property.

**Sanger:** Christina [Deeren, the township's zoning director] and I met with the property co-owner in late spring. The building had been demolished by fire earlier in 2018. Any issues with regard to arson were resolved by the county sheriff's department and the state police in May of this year. The owner seemed eager to resolve this issue and felt that, by the middle of June, the property would be cleared of the remnants of the remaining portions of the structure that burned during the fire. The owner failed to complete this task. The zoning office under the direction of Christina contacted State Farm Insurance [the holder of the homeowner's insurance] and began a dialogue with the agent. Promises were made to release funds for remediation of the property. Our dangerous structures ordinance gives the township the authority to resolve this issue. State Farm and the township arranged to have a snow fence installed around the remains of the structure for public safety. We still do not have a response from State Farm on whether they will honor the policy or not.

**Meihn:** We have given State Farm all the time it needs to comply, and we need to correct the problem. This will only get worse with infestation of animals. We are asking the board to approve an injunctive relief on this issue so that we can proceed to get this issue resolved.

**Moved by Wunsch to approve Meihn's recommendation to proceed with an injunctive relief to compel State Farm and the owner to clean up the property by removing the structure and filling in the area, seconded by Bickle.**

**Roll call:**

**Passed Unan**

**Meihn:** We have had two short-term rental violations that we became aware of, and one of them has been resolved after seven to nine violations were issued over this past year. With this violation, we were able to enter into a settlement agreement with the owners to get compliance with the ordinance. Christina will receive a copy of each lease agreement that is entered into. This agreement has been signed by all parties. A memorandum will be provided within the next week to outline the ordinance. On the second violation, we will be going to court shortly. The new legislation on the short-term rental bill is being reviewed by the state of Michigan. [Meihn] will inform the board on the new law as it goes into effect. There is still an issue with enforcement activities.

Has also been working since the former clerk resigned to report to the board the issues and concerns that were discovered. Some of these issues have already been talked about in previous meetings. The 941 taxes were not paid in a timely manner, which resulted in sanctions. We received a report from the insurance company for property not properly insured. One property was at least \$800,000.00 underinsured while there were other properties insured that were not owned by the township. We dealt with the payroll issues

with Susan and Christina where overtime was not paid appropriately, which resulted in some wage and hour issues with the U.S. Department of Labor. We agreed to a settlement whereby Christina waved any rights and claims against the township and the former clerk. Susan made us aware that the former clerk had threatened to fire her, which was also resolved. We have a 125 premium plan for insurance, and we were informed that monies were taken post-tax that should have been paid pre-tax. Meihn questioned if the former clerk was also on this plan.

**Chown:** She was a full-time employee, but no, I don't believe she was part of this plan.

**Meihn:** Looked at the names and was not sure she was a part of this or not. It was determined that the former clerk paid this out on the full-time employees post-tax and not pre-tax, which resulted in \$6,615.00 of monies that were collected incorrectly. In addition, there are additional issues on how to make this whole. Will cost the township a total of \$12,074.79 to correct the error in the 125s.

[Read email from accounting firm Baird, Cotter & Bishop regarding payroll taxes and pension taxes resulting from the inappropriate use of the 125 plan.]

**Moved by Achorn to reimburse the employees for the taxes they paid because of the inappropriate use of the 125 plan in accordance with Baird, Cotter & Bishop of \$12,074.79 and that this reimbursement be paid before the end of this calendar year, seconded by Bickle.**

**Roll call:**

**Passed Unan**

**Meihn:** Would like the board to grant him permission to engage with the former clerk and/or her counsel with regard to missing documents. When Becky came in and took over for the former clerk, she was shown a room containing more than 111 cds for the township, 61 cds for the planning commission, and 52 for the parks commission. Becky was also shown a cabinet where the closed minutes were held, and after she took over this seat on January 3, all those cds except for the ZBA cds were missing. In addition, all the closed meeting minutes for 2018 were gone. As discussed, when we brought this to the attention of the prosecutor, the legal issue before us is that when the torch is passed to the next board, this information, which is relevant and important, is gone. We have a real issue if there is a lawsuit filed that these missing documents and cds constitute a spoliation of evidence that could result in hundreds of thousands of dollars in penalties and fines against the township for failure to manage its documents. We are also missing about 111 blank cds. Requested that the board approve him reaching out to the former clerk to collect the missing documentation and cds.

**Moved by Manigold to allow Meihn to meet with former clerk Joanne Westphal and/or her counsel, seconded by Wunsch.**

**Roll call:**

**Passed Unan**

## 9. Citizen Comments

**Joanne Westphal, 12414 Center Rd.:** Fourteen months ago, [Westphal] resigned as clerk of

Peninsula Township, and since then has been publicly accused of inefficiencies within the office she served. Has been accused of defamation, false light, and violating HIPPA. Is grateful for her experience as clerk and is not bitter as it was an opportunity to work with the board and residents. Requested that her statement be entered into the public record so that all can see the other side of the story. Passed out a book titled *Gratitude* by Oliver Sacks to each board member.

**Note:** Ms. Westphal informed the board that she would be submitting a statement that she would like to have included in the minutes. It is best policy that such documents or other materials are referenced but not included verbatim in the minutes. The document will be placed in correspondence under the consent agenda at the upcoming board meeting on December 10, 2019.

**Chris Fifarek, 13046 Center Rd.:** Doesn't want M-37 turned over to the road commission as he has been dealing with them for several years with the flooding gutter system. When they do come in and do the things that they do, they duct tape or make the situation worse. Was one of the last people to get natural gas but was one of the first to sign up.

#### 10. Board Comments

**Deeren:** Informed the board that EGLE sent out an email stating that anyone looking to place sandbags along the shoreline is now required to file a permit with EGLE.

**Manigold:** Talked about stray cats in Old Mission. Is looking for ideas on how to get the cats rounded up as the person feeding them has left for the winter.

#### 11. Adjournment

Moved by Wunsch to adjourn, seconded by Sanger.

**Passed Unan**

Final adjournment: 8:27 p.m.