

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

www.peninsulatownship.com

Township Board Regular Meeting Minutes

December 14, 2021, 7:00 p.m.

Township Hall

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

2. **Pledge**

3. **Roll Call:** Present: Manigold, Chown, Achorn, Bickle, Wunsch, Sanger

Absent: Wahl

Also present: Attorney Meihn

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

Grant Parsons, 6936 Mission Ridge: commented on the December 8, 2021, *Record Eagle* article. It's highly unusual for a township board to be sanctioned. Suggested the board make a list of goals with the township attorney for the lawsuit and not feel pressure to settle the case.

Marty Lagina, 232 W. McKinley: sanctions are rare. It was not a victory for the township to be sanctioned.

5. **Approve Agenda:**

Manigold: add item 4 to Business: spruce trees at the corner of McKinley and Center roads in violation of the PDR ordinance.

Moved by Wunsch to approve the agenda as amended, seconded by Bickle.

Roll Call

passed unan

6. **Conflict of Interest:** none

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

1. Invoices (recommend approval)

2. Reports

A. Grand Traverse County Sheriff's Office Citation, Accident, and Arrest Statistics for November

2021

B. Peninsula Township Fire Department for November 2021

C. Cash Summary by Fund for November 2021

D. Peninsula Community Library for December 2021

3. Minutes from November 18, 2021, Township Board Special Meeting

4. Request for a summer levy and tax collection for the 2022 tax year from Northwest Education Services

5. Correspondence

A. Marty Lagina

B. Jason and Rachel Plum

C. Chris Rieser

D. Connie Boyd

Chown: corrected the minutes from November 18, 2021. Correction is attached. See item 6 under Business, which was inadvertently left off the original draft of the minutes.

Moved by Bickle to approve consent agenda as amended, seconded by Wunsch.

Roll call

passed unan

Manigold: introduced the new township planner, Jenn Cram, who will begin work at the start of the new year.

8. Business:

1) Update from the Peninsula Township Parks Committee regarding its work with LIAA to create a Parks Funding Feasibility Study (Armen Shanafelt, Peninsula Township Parks Committee member)

Armen Shanafelt, Peninsula Township Parks Committee member: referred to the PowerPoint in the meeting packet and summarized parks committee progress. Engaged with LIAA six months ago. The committee created a baseline for spending regarding what is being done and identifying gaps. Currently, the parks receive a low level of maintenance. Needs were identified such as a dedicated staff. Agencies give grants to fund capital projects, not maintenance, but capital projects include maintenance, and money is needed for maintenance. A parks bond or millage request has been discussed, as has potential land acquisition for Pelizzari. Reviewed capital projects in the township.

2) Public hearing on the Peninsula Township Zoning Ordinance Re-write (see full text of the draft rewrite online at www.peninsulatownship.com); comments will be taken through December 31, 2021, and then will be sent to the planning commission for further review and possible final amendments (Manigold and Sanger)

Manigold closed the regular meeting and opened the public hearing.

Monnie Peters, 1425 Neahtawanta Rd.: is unhappy that the rewrite has not been passed. The planning commission passed the zoning ordinance rewrite and sent it to the township board; [she] thought it would be passed tonight. Summarized [her] involvement with the zoning ordinance. It is a living document and can be changed. There are areas that have been untouched: wineries, bed and breakfasts, and short-term rentals. Urged the township board to pass the basic document in January.

Brit Eaton, 1465 Neahtawanta Rd.: supports the passage of the rewritten zoning ordinance with the farm and winery issues pulled out.

William Rudolph, 4784 Forest Avenue: it is time to pass the zoning ordinance; it can be amended.

Marty Lagina, 232 W. McKinley: just because it's been underway for a long time is not a good reason to pass the ordinance rewrite. Issues have come up and a last go is appropriate. The master plan is not valid and the zoning ordinance must be consistent with the master plan. The master plan's wording in the commercial zoning district section needs work. Development in the township is being discouraged. Thought the zoning ordinance was being fixed and that substantive changes would not be made. Commented on language changes to the viewshed, winery chateau, and shoreline. Citizens should be made aware of all the changes. Suggested incentives instead of taking rights away.

Mark Dost, 7544 Peninsula Drive: what can be done about the excessive speed on Peninsula Drive? Suggested more posted speed limit signs, speed activated radar signs, and newer lighted signs.

Manigold: a second deputy has been hired; he starts December 22, 2021. The township has several signs in use that give the speed limit.

Bickle: the township has deputy coverage seven days a week and the use of radar.

Virnell France, Peninsula Township's community police officer: has issued thirty-plus speeding citations. His patrol car is visible from the road. Explained enforcement in the township for speeding.

Bickle: asked Deputy France to comment on traffic cars.

France: there are two county traffic cars that can rotate into the township; they deal with enforcement in hot spots. Discussed enforcement in the township.

Discussion ensued.

Manigold closed the public hearing and opened the regular meeting.

Manigold: every time someone mentions the zoning ordinance, there's a new complaint. For example, there's a dramatic change to the section on roadside stands. A thorough review is the way to go. The master plan is what we want to be but the zoning ordinance is the law. Is willing to send the zoning ordinance back for review.

Achorn: in the five to six years that the zoning ordinance was going through review, thought it was being reorganized. The substance was not to be changed.

Sanger: many of the people who worked on the zoning ordinance rewrite are gone. Saw changes in the roadside stand language due to a complaint that was filed. Continuity was lost given the number of people working on it. Language was changed to address immediate problems. The planning commission should go through it page by page. Pieces can be pulled out for scrutiny but the core can be passed.

Chown: the planning commission or perhaps the new planner should go through each section and highlight changes. Passage should be delayed until that occurs fully for once and for all.

Wunsch: watched the planning commission go through the amended ordinance. Someone needs to own it and track changes to the planning commission and the township board. The roadside stand language was not tracked. Concerned that additional changes have been made over the last eighteen months. A process needs to be put in place to get it across the finish line. There is strong board reluctance to amend problems until the new zoning ordinance is passed.

Meihn: there is some confusion as to what has been done. If Marty [Lagina] is correct, there are substantive changes that have not been highlighted for all to see. The township needs to have the ability to say where we were and where we will end up. It needs to be organized and indexed properly by going back to the original document and logging changes.

Discussion ensued.

Meihn: seventeen people have had their hands on the document to make changes; this number should shrink and a document should be created that the public can discuss. It should be sent back to the planning commission to have the changes documented. The planning commission should then give people the opportunity to comment and get it approved, then send it back to the township board. It should be posted on the township website for the public to review.

Chown: asked for clarification of the comment from Lagina that the master plan is expired and invalid.

Meihn: the old master plan is not expired/illegal, just not compliant with the State of Michigan rules for being updated. Everything in a township comes from the master plan.

Moved by Bickle to return the zoning ordinance rewrite to the planning commission to, as soon as reasonably possible, begin delineating all the changes and, when it is available and ready, to post it on the website, seconded by Achorn.

Roll call

passed unan

3) Update on the winery lawsuit

Meihn: summarized the progress of the winery lawsuit, including the sanctions. The sanctions were for not bargaining in good faith. The record is available to the public. The court could not understand how some of the board attended the mediation yet voted seven to zero in the public meeting to reject the settlement offer. It was seen by the court that the township was swayed by the public. The township's request for sanctions was denied. The full township view, including a citizen's advisory committee, was brought to the court's attention. It should have been a public process all along. The next meeting, January 4, 2022, will be posted and will be at Grand Rapids District Court. The public is included. If the lawsuit is not settled on January 4, 2022, the summary disposition motions are due on January 15, 2022. The MLCC exemption issues and motion to dismiss has been filed. PTP has appealed the court's ruling that they cannot be in the lawsuit.

Also gave an update on the United States Supreme Court ETS guidelines: under the ETS, one-hundred plus employees need to be vaccinated with the court tests of religion and medical. The ETS will move forward. There is movement in the court system that strips religious exemption, at least for a health care worker, for vaccination.

4) Spruce trees at the corner of McKinley and Center roads in violation of the PDR ordinance

Manigold: the trees Mr. Brown planted were not planted in the correct place and violate the conservation easement. They need to be removed immediately and he has not done so. An accident occurred at the intersection within the last week. There have been fatalities there in past years. Meihn will write a letter to Mr. Brown directing him to remove the trees as soon as possible.

Moved by Sanger that the township board direct the township attorney to write a letter to the property owner who is violating the conservation easement to demand the trees be removed as soon as possible, seconded by Bickle.

No action on this motion

Chown: the motion is vague.

Discussion ensued.

Amended motion

Moved by Sanger that the township board direct the township attorney to write a letter to the property owner who is violating the conservation easement demanding that the trees be removed within five days of receiving the notice, seconded by Bickle.

Roll call

passed unan

9. **Citizen Comments:**

Lagina: is it clear under the PDR ordinance that he cannot plant the trees?

Meihn: yes. Removal will be five days from receipt of the letter.

10. **Board Comments:**

Chown: asked the board to hold two closed meetings prior to the January 4, 2022, court mediation.

Meihn: A special board meeting should be called to go into closed session.

Discussion ensued.

Manigold: schedule it for 8:00 a.m. Monday morning, December 20, 2021.

11. **Adjournment:**

Moved by Bickle to adjourn, seconded by Manigold.

Approved by consensus

Adjournment at 8:40 p.m.

Peninsula Township
Township Board Regular Meeting
November 18, 2021, 7:00 p.m.
Becky Chown, Recording Secretary
DRAFT MINUTES

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.