

CASCO BOARD OF TRUSTEES  
MINUTES OF REGULAR MEETING  
JANUARY 16, 2017 @ 7:00PM

Approved 2/20/17

CALL TO ORDER: Overhiser called the meeting to order at 7:08 pm and led in the Pledge of Allegiance.

Present: Overhiser, Graff, Winfrey, Macyauski, Brenner, & 24 other interested people.

Absent: None

PUBLIC COMMENT: None

**Reports:**

Clerk: None

Treasurer:

Balances in all of the accounts are as follow:

General Fund	Balance	\$449,500.25
Parks Fund	Balance	\$ 15,412.40
Senior Services Fund	Balance	\$ 16,476.21
Fire Dept Fund	Balance	\$336,192.49
Road Fund	Balance	\$ 35,830.23
Police Fund	Balance	\$ 79,348.82
Cemetery Care Fund	Balance	\$114,852.16
Collected Tax Account	Balance	\$972,234.23
Lakeview Sewer	Balance	\$ 8,526.94
Lakeview Water	Balance	\$ 360.99
Pacific Sewer	Balance	\$ 13,599.02
Pacific Water	Balance	\$235,313.43
Orchard Sewer	Balance	\$ 16,135.38
Lakeview Paving	Balance	\$ 36,707.62
102nd Ave SAD	Balance	\$436,689.50

I make a motion to approve the following:

General Fund	Order#24166-24206	in the amount of	\$ 26,256.25
Parks Fund	Order#849-863	in the amount of	\$ 3,587.09
Seniors Fund	Order#597-601	in the amount of	\$ 3,175.36
Collected Tax	Orders#3241-3254	in the amount of	\$151,705.05
Police Fund	Orders#162-163	in the amount of	\$ 6,439.85
Road Fund	Orders#1121-1122	in the amount of	\$ 75,555.74

Paul supported. All votes in favor. MC

Hospital:

The Hospital is now known as The Bronson Hospital of South Haven, Joanne Schroeder is Chief Operating Manager and is maintaining her key position for the hospital. Judy stated the board will be a advisory board and will be meeting 3 to 4 times a year. The first meeting will be in April. A full time board certified GYN Doctor, his name is Robert Winter and has already started at the hospital. There will be a free cholesterol screening at the Wellness Center in February.

There will be a golf outing at Hawkshead on June 9, 2017.

Parks:

\*Bruce Brandon, chairman, recognized Sandra Warren for her 10 years of volunteerism to the Casco Township Community and Sandra's dedicated efforts to the park committee initiatives are truly appreciated.

\*Bruce also welcomed Rachel Ridley as the replacement for Sandra Warren and at the present time all seats for the committee are filled.

\*Bruce said that the parks committee would like to honor the memory of the late Doug Murdoch. He initiated the concept of the parks committee many years ago and his vision and efforts have made a tremendous contribution to the Casco community.

\*Bruce reported that the committee is presently in the process of updating the 5-year plan and the online survey is still available for resident input concerning the 5-year plan. The plan update is moving along and will be completed early spring.

\*Bruce mentioned that the lights in the township parking lot need to be looked at. They do not come on or off while people are moving around like they should. Allan mentioned he has a second call into the contractor.

\*The signage for Miami Park property will be installed in the spring.

\*The committee recommends the stairs at the Preserve and First Street need to have a serviceability survey done early in spring so if any repairs need to be done prior to the high use.

\*The coast Guard Auxiliary continues to monitor the Casco beach area on a 28 day cycle. A picture of items found on the beach was presented. Such as a lawn chair, mylar balloon with ribbon, shotgun shell, & cigarette butts.

\*The nature preserve parking lot project is in its last stages and Bruce mentioned that Paul Macyauski is now on the park committee and is a great asset.

Allan asked Bruce if it is necessary to wait until the end of winter to look at the stairs because John may have some time now. Bruce thought that was a good idea to do that now.

Senior Care:

Rachel stated that they don't have a lot going on right now.

\*She thanked Chris Barczyk for donating a reader machine that is for the visually impaired. Rachel said Casco has a lady that is going to Kalamazoo for a month long training and then she will use this machine.

\*They have had to cancel some things because of the weather.

\* February 14, 2017 @ noon Deputy Kurt Katje is going to put on a program for seniors on safety.

\*This Thursday, Jan. 26, 2017, a gentlemen is coming to interview Casco's senior program to see if we are able to put the MAP program together here.

Allan said that the person in Allegan County is no longer available.

Priscilla Massey said there is a visually impaired class in Allegan.

Water/Sewer: Allan reported that at the end of December 2016 with 16 hookups. The new Regional Water/Sewer Authority will be starting up in February.

SHAES: Fees were approved for inspections as it relates to the rentals so there is an inspector being hired for not just rentals but for preplanning that will be a big help to the department that will bring them up to three inspectors on staff and a fee will be developed in South Haven.

OLD BUSINESS:

Rental Ordinance:

Allan stated that he has collected about 30 names of interested people that wanted to be involved in helping shape a rental ordinance. Having sat thru last weeks' meeting he has had since then he is perplexed in how to go forward with it. He would like to open that up to the discussion probably because it relates to the direction we gave the Planning Commission at our last meeting we laid out the issues that Ron Bultje had identified as the ones the Planning Commission should consider. The problem as I have been talking to Judy the issues that are on the short term rental ordinance may be issues that probably should be considered by the Planning Commission or in conjunction with that it is kind of the chicken with the egg question. This is a new situation that the board and the Planning Commission look at in regulating something or allowing something with regulations. Allan stated that he would like to open this up to get some ideas or suggestions from the board. Judy stated that her and Allan are both hearing from people in the township that they don't understand what the difference between this committee that Allan is forming and from what the Planning Commission is doing. Her perspective the Planning Commission has the responsibility to handle any kind of ordinance that deals with land use. The planning commission grasp tax and rules pertaining to land use which eventually goes into the ZO once the board approves those recommendations. Judy thought the committee was for looking at the administration and the enforcement of the rule pertaining to rentals. Judy thought the committees were different with different purposes in supporting one another. The other thing that is confusing for people and for her too is the whole issue of the regulatory ordinance. Judy said that Allan brought up the draft from the Attorney in Nov. and the regulatory ordinance is not something that were familiar with or what is it, what is its use and from the research that she has done on regulatory ordinance from MSU Michigan State University Extension offers training for zoning, planning and there is a article out there called ZONING AND POLICE POWER ORDINANCES OR REGULATORY ORDINANCES are not the same and should not be mixed. Judy read that a zoning ordinance explains that it pertains to a township for land use, a Zoning Ordinance and a Police Ordinance are not the same. The process to create a Zoning Ordinance and to adopt it is designed to place many legal due processes and property rights protecting zoning. This is because zoning regulates the use of land as a nation we value property rights.

So when a government like us regulates use of land there are many hoops which regulars must jump through. Any time you change an ordinance you must have a public hearing, there are many legal requirements you must go thru, present it to the board, they have legal requirements to go through also. Police Ordinances or Regulatory Ordinances different phrases are used for the same thing. It says here that Police Ordinances do not have the rigorousness of a process. As a result of a government fact regulates land use, but adopts the ordinance as though a regular ordinance is and they call it a police ordinance the courts are not likely to uphold it. The difference is a zoning ordinance is based on a master plan, the master plan has to be adopted, police ordinances do not have such a requirement. The process of adopting a master plan also has those same safe guards the process involves public involvement, hearings, notices, and much more. A Police Power Ordinance does not regulate the use of land. Judy mentioned that the tradition in Casco is to have the Planning Commission do our zoning so why all of a sudden should we change because we have another request for a zoning consideration. Judy stated that she understands Allan's argument is coming from with a Regulatory Ordinance where everything is in one place. She further says that in zoning we don't ever have everything in one place. Judy states that in her perspective is that the Planning Commission should deal with land use, what ,where, when, how and why. Also, we need enforcement: Registration, fees, funding, resources, house the public,

their problems addressed, etc. Judy sees this as two separate committees.

Allan stated that he doesn't disagree other than the fact that the two things are not mutually exclusively and he wasn't proposing to choose one process over another process. The only problem is things that are in the Renting Ordinance that are also going to be in the ZO. For instance the definitions that are going to be in the short term rental ordinance, if there is going to be one, would be the same definition in a Renting Ordinance that would be in the Zoning Ordinance that the planning commission would develop. Allan stated that not putting them in both places is a mistake. Both the planning commission and if we do get a study group to look at a short term renting ordinance would be an advisory board to the township to say to either adopt it or not or go back for revisions. There are land use issues in the Rental Ordinance and or there are behavioral type issues in the renting ordinance also. So Allan stated it might make some sense to send it to the Planning Commission to look at it because they might do something entirely different and there was a lot of comments last meeting about various ideas and I know they will probably look at all of the comments they read and they heard. As a development of a short term regulatory ordinance it might make some sense to hold off on it for awhile to see what direction the Planning Commission is going to go on for at least one meeting or so to see what the Planning Commission is going to do. Allan said that would be his advice for now. One of the things that he has on the agenda is a Noise Ordinance which had been passed out to the board. He has got some places where there aren't public sewer and water and has talked to the Health Dept. on how to handle septic systems certifications for that and there is language that will have to go in for that. Allan went on to say that we do have many things that we do permit in the zoning that we defer to other agencies such as the case of migrant housing we turn over to the Michigan Dept. of Agriculture and the Dept. of Labor and we do have a couple other situations where we defer regulation to somewhere else. If we allow short term rental it we would regulate it to another group of ordinances under a short term rental ordinance.

Paul mentioned that he struggles with what Allan just said if we are going to allow it. Paul also mentioned that he has been on the pc since 2004 the only people left on the pc that were there when he was first on it are Judy Graff and you Allan and we hammered out an ordinance that he has been bragging about for years on how good it is and he further said he's sat in pc meetings up until just a few months ago and we talked about not going off and start changing things because of one persons request about changing this or that. Bank in 2014 the Planning Commission looked at the ordinance and looked at all the complicated text dealing with special land use. Paul stated that at that time he found out he was illegally operating a sawmill he didn't realize it wasn't permitted use he assumed it was a right of ownership living in the country. The Planning Commission board went thru a whole list of things and we decided to redefine and they were all committed uses. He said he thinks back of all the discussion the board had developing the zoning ordinance and he thinks back of all the stuff that were redefined of what was permitted use special use and what was land use and never once did we ever talk about short term rentals because the Planning Commission and the community has always assumed it was right to ownership. Paul stated that he didn't think that any of the board were idiots and been sitting on their hands for all those years with the planners that we didn't think that renting your home was a right to ownership. Now a judge has made a decision based on his decision that the township is having a definition that really is not enforceable or is not being enforced. Paul further said that Judy your right we need to take care of the ordinances uses but at this point our direction to the Planning Commission is to make this right and we have some homework to do here and we need to start defining things a little better, the judge did not that renting was a bad thing it's kind of the fabric of our whole community and it has been for a number of years so we have heard and Allan has

said we have issues. So he is just hearing about this now and has never heard about them before. Paul said he has never heard them come before the Planning Commission and the public meetings that we have had working on the new ordinance, not one complaint except for now with the judges' decision. If there are subdivisions out there that have deed restrictions don't make it the townships problem it is your problem. It is your community, it is your subdivision and it is your deed restrictions which we don't have jurisdiction over anyway. So we have spent a lot of time, wasting time, listening to complaints wasting time worrying about something that really is out of our control in some neighborhoods and in some subdivisions. Paul feels if we had these definitions to allow short term renting which we have been doing and then find out do we have any type of Regulatory Ordinances to allow this. Paul feels that right now the only thing that the Planning Commission should be doing is figuring out is to fix what the judge broke. Don't fix something that we already have and that we have been using for a long since 2006 anyway, there is nothing there to fix. What needs to be fixed is the definition that the judge ruined. We need to make what we already have and make it more definitive. He knows there are some unhappy residents on both sides of the fences but he doesn't think that any of us qualify to make this decision to immediately disallow or allow to our township anything new.

Allan stated that because of the confusion and the public input that we have gotten on this and the fact that the judge has pretty much changed the definition of commercial in Casco to as knew it and that doing nothing is not an option. Allan further said that we have to look at this at the planning commission level make some changes clearly long term renting that is a no brainer there is no reason to look at other then permit it. Allan mentioned that we have another issue that we briefly talked about last week by the Morgan's an issue where there is a resort where we have sleepy and other places that Alfred is looking up we have long historically rented places that have ongoing management, these need to be legal. He thinks that if the commission leaves them in a state of being legally non conforming we wouldn't be doing them a just service. We need to find a way to make those legal. His opinion is the short term rental is obviously probably getting the most controversy and how you define that and needs to be looked at. Definitions of all rentals is something that we have to do the other thing that was raised the position statement that was presented at the last board meeting is the issue or the practice of transient renting that bears a definition in our zoning ordinance somewhere the position paper asked us to somehow construct that is the same as a hotel that's the only hotel commission in our ordinance zoning ordinance means that is rented at a daily rate. Allan stated that he is not sure what transient renting means. He thinks in his opinion that needs to be looked at. Because he thinks this has some bearing on bed and breakfasts, resorts with onsite managers, the Inns, and there are some state regulations on Inns like that. We need to look at that and develop a definition for Casco Township.

Another thing that Allan said all through the public discussions there has been discussions about lack of enforcement in the township. I would like to remind everybody that there are hundreds of events that happen every year where 100% of code compliance either in zoning projects or building projects or whatever, now there are times when some of us aren't happy with the results as far as enforcement, Allan stated he had been one of them. Allan said that as far as enforcement with a lot of our ordinances and our codes that have been adopted we achieve a very good level of compliance and Alfred Ellingsen has done a very good job in the ten years he has been with us. Allan felt that he needed to say this.

Allan asked if there were any public questions or comments on this:

**David Campbell** stated that he recalls Paul that a group of residents of Glenn Haven Shores

coming to a Township Meeting complaining about large groups of 20 or people renting the home on Blue Star Highway. David remembers that the township not having anything to do with it or something along those lines. David's interpretation of the lawyers presentation is that we can sit here and do nothing or get this thing done. He thinks the township should say in taking a risk in doing nothing or move forward in doing something and the question is if the board is going to do something then do it and get moving with it and have the planning commission do definitions and David has no idea of what just went on. David feels the board needs to come up with some better direction for the planning commission and having two separate committees and how it is all going to come together with one document.

**Priscilla Massey** said that they haven't always had renting the renting on her street started two years ago. She said she has been to the township meetings complaining about the renting in her area and she said that she has been waiting for the Sunset Shores litigation decision. She said she knew the regulations weren't enforce and she said they have been to Alfred and complained and he supposedly told her it wasn't any of his business.

**Chris Barczyk** stated that if we go down the renting path that we need to look at the budget because we are going to need more staff and police enforcement.

**Kathy Watt** has the fear of this summer they have a party house within 30 feet of their home and when she comes home from work there is yelling, partying going on and she doesn't want to go out and say something to the renters about the noise and she would like to trust that someone is on duty and that her safety and doesn't have to worry about if she does say something is she going to have to worry about repercussion. She wants to know that she has protection, she also mentioned that there are 16 to 20 homes in Miami Park that are rentals and people are hostile

Paul said no matter what decision that Dan comes up with do not make the neighbors responsible. If there is an issue being a nuisance then call 911.

**Priscilla Massey** stated that South Haven has 25 police on their force, chief, two detectives, forensic and we have one that is not full time and the worse time of the year 4th of July he is called to assist in South Haven. She said she couldn't get anybody into her neighborhood.

Judy stated that the rental bookings are already going on, they start booking in January and most of them are repeat renters.

**Janet Chambers** suggested that shouldn't it be started with the master plan.

**Bob Jensen** has lived in Casco for the last 3 years he worked for the automotive business and part of his job was solving issues. He had several suggestions on how to handle solving this rental issue.

A gentleman from Highfield Beach recommended to have Bob Jensen help the community to walk thru this process.

**Dan Fleming** asked if all of the subdivision have their own covenants. He continued to ask if these are not enforceable how is the Planning Commission going to enforce it.

Allan stated that a Regulatory Ordinance would be needed. Dan also went on to say that they need data to define short term renting. He also said that it is really hard to change zoning.

**Judy Graff** didn't think they needed data to define short term renting.

**Pam Blough** explained that every subdivision is different and zoning can be applied to different areas for different situations.

Roads:

The County had their annual roads meeting.

The county is going to resurface 62nd Street and they are suggesting to put shoulders in on 62nd Street. The cost for shoulders is the township expense and that cost would be \$30,000.00. We pay for them the first time and then after that the Road Commission maintains them.

From 109th to 113th Ave. on 62nd St.

Lu made motion to install shoulders on 62nd Street from 109th Ave. to 113th in the amount of \$30,000.00 also to resurface for all seasons. Paul supported. All in favor.

North Shore Light Discussion:

We had a request at our December 2016 meeting to install lights on North Shore Drive in the Township area to have the township pay for the installation.

The board was not inclined to do this at this time. Allan will relate the decision of the board regarding the lights back to the individuals that requested the lights and will explain to them the process of a special assessment.

Audit:

The audit was passed out and the board hopefully will be ready to discuss and approve at the February meeting.

New Business:

Salary Committee:

Allan explained that it has been probably around 15 years that the salary has been looked at for the Township officials. Allan recommended that we have a compensation committee look at it and he has three people to work on this with Cheri and Paul. He has George Fleming, Diane Liepe, Jeanie VanZoren to look at the salary of the township officials. He suggests to look at the comps and to understand the jobs that each one of us have and look at some of the uniqueness of Casco and how it relates to other townships and anything else they want to look at. Allan would like it back by the April Board meeting where we are required to do a Resolution if there is going to be change 30 days prior to the annual meeting.

David Campbell agreed this is a long overdue process the township has gone over a significant change in the last 9 years and he hopes that you can come up with salary recommendations for the salary adjustment.

Judy requested that all officials should be interviewed by the committee so they can understand what the board goes thru.

Building Permit Fees:

Allan said that the township is starting to look at the building permit fees it has been quite a long time since they have been amended so Alfred is reviewing the fees and he will be getting back to Allan on this. Judy requested that all fees be on the website.

Public Comment: Chris Barczyk asked for a copy of the proposed noise ordinance.

Paul made motion to adjourn. Lu seconded.

Meeting adjourned at 9:18pm

Minutes respectively submitted by- Cheryl Brenner, Township Clerk

