

REGULAR MEETING OF CASCO TOWNSHIP PLANNING COMMISSION December 5, 2018; 7 PM

Members Present: Chairperson Dian Liepe, Vice Chairman David Campbell, Secretary Lewis Adamson, Board Representative Judy Graff and additional PC members Greg Knisley, and Dan Fleming and Dave Hughes

Absent: None

Staff Present: Janet Chambers, Recording Secretary,

Also Present: Zoning Administrator Alfred Ellingsen, Planner Lynee Wells and 2 interested citizens.

1. **Call to order and review of agenda:** (attachment #1) Meeting was called to order at 7:00 PM by Chairperson Liepe. There were no changes to the agenda.
2. **Public Comment on items NOT on the agenda & Correspondence:** Graff read letter from her to PC members (attachment #2) regarding comments made by Fleming. At the November 7th meeting Fleming commented that zoning and the PC were stealing the rights of property owners.

Fleming responded he respects her comments and will take them into consideration. Fleming presented a revised version of a letter he sent to legislators and read at the last Board of Trustees meeting. (attachment #3).

Chairperson Liepe said it is good that we can all have different opinions, not agreeing with all of them, respect other's rights to voice them, and work within those guidelines.

Campbell added he had spoken to Supervisor Overhiser regarding the situation in general, and the fact that there is not enough flexibility, and is too extreme. It distracts from the PC accomplishing their job and is not helpful. Campbell stated he has discussed this with Fleming and understands where Fleming is coming from.

Vice Chairman Campbell read a letter from Janet Chambers concerning a lighting ordinance (attachment #4).

He also read an email from Maureen Perideaux (attachment #5) including a link to the Saugatuck Township Lighting Ordinance.

3. **Accept minutes of 11/07/2018 Regular Meeting:** A motion by Fleming, supported by Graff to accept minutes of 11/07/18 Regular PC meeting. An error on page 10, paragraph 6, 3rd sentence corrected as follows: *Most of what is in here (~~Zoning Ordinance~~ **The Township Guide to Planning and Zoning**) makes very little sense.* All in favor. Minutes approved with correction.

4. Old Business:

- **Exterior Lighting Ordinance – Discussion and set date for Public Hearing (Williams & Works Amendment Draft - 9/28/2018) (Campbell):**
(Attachment #6)

Lynne Wells, planner for Williams & Works, reviewed the Lighting Ordinance draft following with commissioners viewing on overhead projector. Discussion ensued on the wording as follows:

Wells discussed the reason for a lighting ordinance and the increased interest in a Dark Skies interest. It began out west, especially with native American communities where stars were used for navigation purposes. The desire to have dark skies has extended beyond that. Wells lived in New Mexico 20 years ago and dark skies were a focus even that long ago. Shielding is the biggest piece of it. Wells added that consideration needs to be taken in different zones, recognizing farms might have specific needs around lighting. Typically, with residential lighting if we want to allow different types of non-shielding lights it will be lights directed on a house or landscape. This type of light would not be directed straight up, but directly on the focus like a building or flag. There should also be holiday lighting for people to express their spirit with different types of lighting.

Members questioned the exemptions being listed ahead of the regulations. It was decided to move exemptions to the end.

What is a “foot candle”, and how is it enforced.

Members discussed the 3 lighting definitions: 1) Glare 2) Glare, Disabling and 3) Glare, Nuisance. And are the definitions the best descriptions we can come up with the help zoning enforcement.

They discussed the Saugatuck Township Ordinance being thorough and clear and diagrams were clear. But questioned the need for such a long ordinance in Casco (10 pages). It was agreed that simple was best.

It was suggested that they might want to add what the consequences would be if rules are broken.

Commissioners questioned exemptions being put ahead of regulations

It was decided that the 1st exemption should be removed. Residential districts which are most affected by lighting. It is starting with a negative.

Discussion ensued about whether the illustrations were all that was needed. It was decided some text is necessary to clarify. Downward facing, shielding is

depicted but definitions are needed. Some explanation is necessary. Definitions are necessary. There needs to be words to depict what the diagrams mean.

If you can see a light from off the property, is that light trespassing? Is that what we are saying? Commissioners thought it would depend on whether it is a glaring light, a nuisance, or just a light that is out there. Also, why is there light where it is not needed. It is light pollution. If it is not a bothersome light, that's not really what we are after.

Some questioned why porch lights or coach lights or sconce lights need to be shielded. If you drive around and look, none of them are. Should they make a requirement that something that nobody has done, we should make them because we think they should. If the words downward facing or downward shielding, are we eliminating lights people are all using? It was agreed that not every light should be addressed with downward lighting. Parking lot lots of course should be downward facing. It was agreed that not everything would be addressed with downward lighting.

Page 2 #1 given the diagram and conversation, there are points that help provide some guidance in regulation. It could be covered in B Regulated Lighting #1. It was decided to remove Page 2, #1 Residential decorative lighting..... in it's entirety.

Questions were raised about how enforcement would be handled for B Regulated Lighting #1. Lighting will carry different on a dry day vs a rainy day or icy day.

Discussion ensued about "foot candle" and its definition.

Wells said non-single-family projects with a site plan typically have a photometric reading which shows the distribution of light. The measurement from the point where the source is to the end of the property is measured by "foot candle". You also ask for a diagram of the lighting to see if it is shielded or if the bulb extends beyond the bottom of the shield. You can always wave what you have or ask for more restrictions within a site plan.

Ellingsen said the fire department also uses a measurement of light when they require enough light indoors. The Township would have to get equipment for photometric readings.

Wells added single-family housing does not come through site plan reviews, but site plan reviews would cover everything else.

Chairperson Liepe said with a single-family house, the owner would still have to come through the Building Inspector with their plan and the Building Inspector would be able to see the lighting plan.

Wells said even on boxes where lighting is sold there are little icons that show light sky compliant.

Ellingsen said because we have 50' or 60' lots and greater density, obviously lighting will be more intense. He went on to say that Saugatuck Township's light ordinance was brought on because of neighbors who did not get along. While one was away for the week, the other neighbor put up a 175 watt light 6 feet off the fence line shining onto his neighbor's house. He added Saugatuck Township's lots are bigger lots than what Casco has in the subdivisions. Older subdivisions that do not have association rules are more of a problem.

Chairperson Liepe said there should be some help for people who are having issues in pre-ordinance houses if lights are shining right on them.

Campbell said he feels an ordinance should be done as soon as possible to come up with a good reasonable ordinance. All we hear about is growth which means more and more houses in these small subdivisions and west of Blue Star. He suggested eliminating Page 2 #1 and #2.

Wells said she understood that commissioners did not want to limit porch lights, sconce lights and low-level lawn or landscape lights. She suggested including seasonal holiday lights in #1.

Knisley said that you can exempt porch lights, sconce lights, etc., but if you put them up and they fall under the Nuisance Glare, Disabling Glare etc. they would still be prohibited.

Liepe said porch lights, sconce lights and low-level lawn or landscape lights could include seasonal holiday lights and there could be a definition of seasonal lights. Lights that should not be included would be farm and farm operation lights.

It was agreed that the exemptions should be after the regulations.

Wells said the reason for the exemptions being at the beginning is because if someone starts reading the ordinance they will be upset, so she wanted them to know right away that their porch lights are exempt.

Commissioners decided exemptions should be at the end.

Campbell said with the 3 definitions at the beginning and residential decorative lighting added.

Discussion ensued about putting 150-watt limits or possibly even 100-watt limits, which could even be determined at the time of the public hearing.

Residential Decorative Lighting includes porch lights, sconce lights, low level lawn or landscape lights under 100-watts, seasonal holiday lights.

Graff stated that in the ordinance, definitions are all alphabetic. She would like to see an overall lighting definition with sub-definitions under it. Commissioners agreed.

Wells pointed out that she did not see “glare” in the content of the ordinance. She suggested an intent paragraph that included the levels of glare, or do we want to eliminate glare from the definition.

Chairperson Liepe said “Glare Guards” are in the standards.

Graff said to her each level has a key word. Glare has brightness. Glare Disabling is a hazard. Glare Nuisance is annoyance.

It was decided that under one definition of “Glare” all three levels can be included.

Discussion ensued about the intent. They said it should to be to keep the light within the property and not be a nuisance or disabling to others.

Campbell said when you are talking about “Glare”, you are talking about annoyance, discomfort, or loss of vision. With “Nuisance Glare” you are talking about annoyance or discomfort. When talking about “Disabling Glare” you are talking about hazardous. It was agreed the definition would include those 3 components.

Knisley said the intent is to stop interference with night skies and trespassing light onto others.

Campbell questioned who would be enforcing or determining if a light is hazardous glare or what?

Graff questioned when it is time to get involved. Is it when a new house is built?

It was decided to remove #3 under B Regulated lighting.

Discussion ensued on C Standards. Figures 3-4 and 3-5 depicts it accurately. **C2. Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way** ~~or the light source is not directly visible from beyond the boundary of the site.~~

Foot candle will also be defined, but under lighting as a sub definition. All lighting definitions will be listed under “L” in definitions.

Fleming questioned C Standards #1. Fleming added you will still be able to see lights indirectly. If a light is shining on a wall, you will be able to see that wall, but

the light will be indirect. Ensure that direct or ~~directly reflected~~ light is confined to the ~~development site or~~ subject property.

No change to # C 3.

The purpose of #4 is so that no part of the bulb hangs below the shielding.

Knisley said as long as the light is cut off, the 20 ft height limitation should not matter.

Discussion ensued about whether it would be ok to have high bulbs and what wattage they should be. It was decided to leave it at 20'.

It was decided that figures 3-4 and 3-5 be inverted.

#C 5. Outdoor recreation area..... will be combined with #4

#C 6. 2nd sentence "The permanent use of beacon and search lights is not permitted." Will be deleted. It is covered under shielded lights.

#C 7 remains same

#C8 was eliminated.

Exemptions will be after Section C.

Discussion ensued on length of time seasonal lighting is allowed? 30 days was decided for length of time holiday lights could be left on.

Graff said the lighting ordinance should be synchronized with the lighting section of the STR Ordinance. Currently we have a regulatory ordinance that refers to lighting. We should be consistent or compatible. Lynee will look at the STR lighting section and see that they are compatible.

Graff said, when you put something in the ordinance, you should go through and see what other places in the ordinance are affected. It could be taken out of other sections and just cover under the lighting ordinance.

Graff said reference to 3.39 has been done in two ordinances, so we cannot use 3.39. Hopefully they will be caught by Municode. Graff questioned whether existing homes would be grandfathered in or brought up to code as lights are replaced. It was decided that when a homeowner changes the fixtures, they would need to comply.

It was decided to see the changes discussed at the January meeting and then go to a public hearing.

Graff said other places in the ordinance affected by the lighting ordinance will need to be changed. Lynee said she will take care of that. Lynee will make the changes and send them on to the PC to look at prior to January 2019 meeting. Graff suggested scheduling the public hearing now would be a good idea. This will give the January meeting to look over changes.

Numbers will be changed to allow for eliminated sections.

Ellingsen said he would be ready for a public hearing on Lighting in February.

4. **Old Business:**

- **Roessing Events Center - special meeting scheduling (Campbell/Ellingsen):** Discussion of the Roessing Events Center was moved forward because of the time. Campbell asked Ellingsen if it is time to move forward scheduling a public hearing. Ellingsen said he has had the paperwork ready since September and can go to public hearing. He has a couple of minor things left and will have those minor additions before the meeting.

Melissa Roessing said she would like to move forward as soon as possible. She would like to begin booking events for Spring now.

Discussion ensued about timing of posting a Special Meeting in the paper and when documents should be available. Also, when posted in the paper it needs to be posted on the website. Public hearings must be posted regardless of whether it is at a regular meeting or a special date.

Graff recalled that it was decided that public hearings would not be held during a regular monthly meeting.

It was decided to put the Roessing Public Meeting on January 16th at 6:00 PM ahead of the Lighting Ordinance Public hearing. February 20th would be the Lighting Ordinance public hearing.

- **2019 PC calendar - Regular Mtgs and Annual Mtg (Campbell):** Vice Chair Campbell passed out a new calendar for 2019 (attachment #7), which included possible dates for special meetings. February 6th and August 2nd are the first Wednesday of the month. All other months it would be the 2nd Wednesday of each month. Dates listed for possible special meetings are January 16, February 20th, May 15th, July 17th, September 18th, November 20th. Special meetings will not be posted until such time as it is determined they are needed. Saturday April 6th was chosen as an annual meeting date. It was decided it would be dedicated to PC operations and organization. All regular meetings will begin at 7 PM. All Special Meetings will begin at 6:00.

A motion by Graff, seconded by Knisley to accept new calendar. All in favor. Calendar approved.

- **PC process – Calendar/guidelines for Special/Public Mtg (Campbell):**
Will be discussion at the Annual Meeting on April 6th.
- **Woodhams – Baseline Rd Update (Liepe):** Chairperson Liepe has been in contact with Woodhams. She let him know it would not be discussed at this meeting. She told him the PC is prioritizing things and putting them on a list. The PC will need to deal with this later.

5. New Business:

Process for identifying high priority PC agenda items going forward (Graff)

Graff said she categorized the PC's work into 4 categories:> I categorized the PC's work into 4 categories:

1. SLU/Site Plan Reviews ie B&Bs
2. Solve current problems through ZO text changes ie state law allows maximum of 9 in a B&B; our ZO allows 10
3. Draft new ZO text. ie rentals
4. PC internal processes, schedules, coordination of needs with ZA and clerk, include member education

Graff recommended that a PC member be assigned as the champion of each so that all 4 areas make progress on the PC calendar "to do" list and that each new request or problem doesn't interfere with the PC's agreed to priorities.

After last meeting thinking about priorities areas

- 1) site plan special land use.
- 2) correct problems because somebody brought problem.
- 3) create new text
- 4) prioritizing

In the past whoever is here last gets the grease. Priorities are not changed when someone comes in here. All 4 categories are important. In Graff's opinion the PC is not keeping up, making us less efficient. We need equal attention to all 4 areas. We are responsible for all 4. We have 7 members on board, a chair and vice chair. Each one should be a champion of a specific area.

People from Miami Park have problems with water, building height, etc. We are doing nothing but giving priority to a new project when someone new comes in. We need to find a way to better handle it.

Chairperson Liepe added we need to concentrate on by-laws also.

Adamson said when someone brings up a problem at public comment time, we need to tell them to go the Zoning Administrator and start the process. We should not discuss that stuff at public comment.

Knisley said when a homeowner comes forward with something, we should fit them in ASAP. We are here for them. Instead of making them linger. He said

he is not saying we shouldn't prioritize, but if we have a date open we should fit them in.

Graff said we don't have a process. We just react to every guy that comes in. We have to mutually agree and prioritize.

Chairperson Liepe said the chair has some responsibility for getting items to the agenda.

Campbell said with the dates set aside for special projects we just say "Here is the next open day we can shoot for."

Graff said we have been working on lighting for 4 to 6 months and are still not done. Every time a project comes in, all of the sudden that project takes priority.

Campbell reminded the PC that Roessing came in in September and had to wait until a Special Event Venue Ordinance was done.

6. **Report from Zoning Administrator (Ellingsen):**
Current list of ZO backlog items needing PC special meetings, if any:
Ellingsen listed items that will need attention: Winery / Brewery ordinance separate from a Farm Market needs to be addressed; high density on Baseline; A site condo and site plan review is coming up. A site condo section in the ordinance would be a good idea. The only large parcel is the old golf course.
7. **Report from the Township Board representative (Graff):**
 - SHAWSA PFA test has been done and came out good,
 - Dave Hughes, Supervisor Overhiser and Graff have received several applications for ZA. They have set Monday December 10th for interviews.
 - **Building height update on 2 ½ story buildings.** Building Height update did not get covered. Graff requested it get on the December agenda.
 - **Master Plan update**
In the past Campbell discussed moving on to MP. 3 years ago, Supervisor Overhiser said the MP was ok as printed. It could take a couple of years and may need to get started.
Liepe added, updating the MP will not happen fast. It would be good to start in 2019.
 - **B&B STR/B&B Declaration:** Waiting for suggested changes from Bultje. However, Supervisor Overhiser had an email problem, and doesn't know if Bultje has send an opinion.
8. **Report from the ZBA representative (Hughes):** October 18th a Parcel on a Sunset Shores corner lot requested an 11' setback. Firetruck access was not a problem and a similar variance was granted already
9. **Report of Water/Sewer representative (Adamson):** No meeting

10. Public Comment:

Chairperson Liepe announced she is not going to seek reelection as Chair of the PC. Her work schedule is complicated and health issues. She would consider being Vice Chairperson. She and Campbell have been working together and a teamwork approach has worked well.

PC members thanked Chairperson Liepe for her work as Chair.

Campbell said he will make sure Clerk Brenner gets the new calendar.

11. Adjourn: A motion by Adamson, seconded by Knisley to adjourn. All in favor. Meeting adjourned at 9:15 PM.

Next Meeting January 9th, 7 PM

Public Hearing Roessing Special Events Venue, January 16th, 6 PM

Attachment #1: Agenda

Attachment #2: Letter from Graff, Dec. 5

Attachment #3: Letter from Fleming, Dec. 5

Attachment #4: Email from Chambers, Oct. 14

Attachment #5: Email link from Perideaux, Saugatuck Lighting Ordinance

Attachment #6: Williams & Works Lighting Ordinance, Sept 28 draft

Attachment #7: 2019 PC Calendar

Minutes Prepared by Janet Chambers, Recording Secretary

REGULAR MEETING OF CASCO TOWNSHIP PLANNING COMMISSION
December 5, 2018
7 PM

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| 1. | Call to order and review of agenda | |
| 2. | Public Comment on items NOT on the agenda & Correspondence | 5 min. |
| 3. | Accept minutes of 11/07/2018 Regular Meeting | 5 min. |
| 4. | Old Business: | 10 min. |
| | • Exterior Lighting Ordinance – Discussion and set date for Public Hearing (Williams&Works Amendment Draft - 9/28/2018) (Campbell) | 40 min. |
| | • 2019 PC calendar - Regular Mtgs and Annual Mtg (Campbell) | 10 min. |
| | • PC process – Calendar/guidelines for Special/Public Mtg (Campbell) | 20 min. |
| | • Roessing Events Center - special meeting scheduling (Campbell/Ellingsen) | 10 min. |
| | • Woodhams – Baseline Rd Update (Liepe) | 10 min. |
| 5. | New Business: | |
| | • Process for identifying high priority PC agenda items going forward (Graff) | 10 min. |
| 6. | Report from Zoning Administrator (Ellingsen) | |
| | • Current list of ZO backlog items needing PC special meetings, if any. | 5 min. |
| 7. | Report from the Township Board representative (Graff) | |
| | • Building height update on 2 ½ story buildings. | 5 min. |
| | • Master Plan update | |
| | • B&B STR/B&B Declaration | |
| 8. | Report from the ZBA representative (Hughes) | 5 min. |
| 9. | Report of Water/Sewer representative (Adamson) | 5 min. |
| 10. | Public Comment | 15 min |
| 11. | Adjourn | |

Attachment 2
2
Dec. 5, 2018

Planning Commission members,

At the Nov. 7 Planning Commission meeting, one of our members, Dan Fleming, stepped 'over the line' in his comments on property rights, views that have been repeated over the last several years. In my opinion his Nov. 7 comment that the Planning Commission and Zoning are "stealing everyone's property" is not true or helpful.

For many decades Casco Township has been a zoned township. For many decades the Casco Township Board has approved Zoning standards and through approval deemed them to be fair to all property owners. Key words are: STANDARDS, FAIR, ALL.

A Zoning Ordinance's mission is to define fair and equitable standards for all property owners. Reference: Casco Zoning Ordinance PURPOSE.

All Planning Commission members, including Dan, including me, are responsible to make decisions per the Zoning Ordinance Standards for all property owners. We are all responsible for putting our personal biases aside.

The Zoning standards are not one sided. Yet, Dan, your comments about property rights and takings, are one-sided. There are 2 sides to every story or property. Each of us lives in a community. Each one of us has a neighbor. Each of us is affected by what our neighbor does. Zoning standards provide the framework for equity in land use and general welfare for all, whether we agree with them or not. That's why we are here.

While I respect the contributions that you, Dan, have made to Casco Township,
While I, too, would like to minimize zoning and make it simpler for all, and
While I respect your right to your opinion,

I, too, have my opinion: Your accusations of 'stealing' is insulting to us who sit at this table, who volunteer our time to help this township.....and your accusations are not helping us solve problems.


Judy Graff

Casco Planning Committee Member

c.c. Casco Planning Commission secretary

Dear Planning Commissioners,

I am sending a revised version of a letter that I sent to our legislators and that I read at the last Township Board meeting.

Thank you for your consideration,
Dan

Dear State Legislators,

I would like to encourage you to consider your responsibility for zoning and what can be done to lessen its negative effects.

I have been involved with zoning in our Township for over 10 years and have noticed some problems that are inherent to the system.

The biggest problem with zoning is that while our Constitution presupposes that property owners control their property unless justly compensated for ("... nor shall private property be taken for public use without just compensation." - Fifth Amendment) zoning presupposes that a municipality can control property use in a way that was historically reserved for the property owners. Consider these quotes from "The Township Guide to Planning and Zoning" and how they support this assertion.

"Introduction - Building the Future (page ix)

The ability to plan for the future use of land, and to adopt regulations to implement that planning is one of the most valuable a township government possesses."

This statement would be true if the township government owned the land and paid the taxes on it. My counter statement would be... The ability to plan for the future use of land, and to quickly adapt to the ever-changing economy is one of the most valuable a property owner possesses.

On the next page, under the heading of "Land use principles", it is stated that "...land-use decision-makers should be guided by a well-defined set of principles".

Three principles are listed. The first one is: "Owners of property are afforded certain rights to use their property".

Property rights are not afforded by civil government. The Declaration of Independence States "that we are endowed by our Creator with certain unalienable rights..." As soon as it is perceived that rights come from government then government is able to take them away. "Governments are instituted" to secure these rights not to pass them around or to withhold them as they wish.

On the next page in a section entitled "A team effort" is this statement..."A close working relationship between the Board and the Planning Commission is essential; without it, efforts to build the community everyone wants will be difficult if not impossible".

Please notice the "sales pitch" in this statement.

If "everyone wants" it then why do we need a whole level of bureaucracy to bring it to pass?

I will bring your attention to the fact that we've only addressed the introduction and there are over 230 pages of text in this book containing more of the same false presuppositions and conclusions.

Some credit zoning with providing for the public good of the community. Sir William Blackstone when commenting on eminent domain, and the need for civil government to compensate for what is taken, stated:

"... the public good is in nothing more essentially interested than in the protection of every individual's private rights as modeled by the municipal law".

Zoning is eminent domain without compensation. For example, when a community states that they want to protect agriculture my question is: "who are they protecting it for?". If farmers want to put houses on their land then they're not protecting agriculture for the farmer. They must be doing it for themselves. That would seem to be a public use which needs to be compensated for.

Some defend zoning on the basis that the Supreme Court says zoning is not a "taking". I disagree. I have a simple test to determine whether or not something is a taking: "If you won't pay for it or give it back" it's a taking.

Some people think that to oppose zoning would require overturning a Supreme Court ruling but there is a difference between overturning a Supreme Court ruling and upholding the Constitution. The Supreme Court does not require a municipality to be zoned. In fact the city of Houston, Texas is not zoned. Every person in civil government that swears (or affirms) to uphold the Constitution has a responsibility first to the Constitution. As a planning commissioner I took an oath to uphold the Constitution the same as the Supreme Court Judges did. I did not take an oath to uphold the decision of the layer of government above me. If that were the case an oath to uphold the Constitution would be meaningless. The reason all levels and branches of government take an oath to uphold the Constitution is to be a check on each other. What scenario would checks and balances fit if not this one. I would ask you: "Can you explain, in your own words, why zoning restrictions are not a taking?". (Just between you and the Constitution.) Just the fact that Zoning had to go all the way to the Supreme Court to allow it proves that it had not been considered Constitutional previously. The Constitution contains specific procedures for how it is to be amended. Having the Supreme Court redefine terms is not one of them.

The whole reason we have a country and a constitution is because our founders stood on the principle to uphold the charters that the King was ignoring. Furthermore, the reason the founders required an oath to uphold the constitution was to prevent the circumstances that led to the War for Independence from recurring in future years.

Following are some suggestions that you as legislators could implement to preclude the arbitrary processes and conclusions that make up zoning as we have it today.

1. Please consider removing the possibility of a Planning Commission making decisions without going through the Township Board, City Council or whatever the elected officials may be in a municipality.

The purpose for this is to put the final responsibility on the elected officials instead of on people that are appointed and not directly accountable to the voters.

2. There should be a list of questions to be answered by the Planning Commission and/or the elected municipal officials before any restrictions are added to a Zoning Ordinance. Following is my suggested list:

- A. What is the problem that needs to be solved by this added restriction?
- B. How many people are affected by this problem?
- C. In what other ways could this problem be solved? (Including the private sector)
- D. How many of these ways have been tried?
- E. Is increased regulation through zoning the best way to solve the problem?
- F. How many people would be affected by the proposed restrictions?
- G. Will the people affected by the proposed restrictions be compensated?
- H. How do the effects of the solution compare with the effects of the problem? (Show what data was used to answer this question.)

I believe that if you would pass legislation requiring municipalities to answer these questions then most of the emotion-based, arbitrary restrictions would never make it to the table much less the Zoning Ordinance.

It would also put the burden of proof that these restrictions are needed on the municipalities in a way that is equivalent to the burden of proof that is required by property owners in order to get a variance from the restrictions: In our Casco Township Zoning Ordinance there are 7 standards that must

be met in order to get a variance while there are no standards, such as I have suggested above, that municipalities have to meet when adopting the restrictions in the first place. Bernard Siegan, in his book " Land Use Without Zoning" puts it this way:

"... Questions of compatibility, economic feasibility, property values, existing uses, adjoining and nearby uses, traffic, topography, utilities, schools, future growth, conservation, and environment have to be considered... This cannot possibly be accomplished. Just to determine the economic feasibility for certain uses at any one site for any one period of time would require a market survey costing possibly thousands of dollars, and this largely eliminates survey use. How does one decide on the priority of the various factors, that is, which are most and least important? That there is practically no limit to the number of factors pertinent to decision-making nor any guide as to how they rank in importance allows for maximum discretion on the part of the planners. They can consciously or unconsciously accept or reject criteria and data almost at will. There are relatively few standards that confine their determinations except those which they establish for themselves."

These standards should also apply whenever a municipality re-works its Master Plan and Zoning Ordinance. The reason for this is to remove arbitrary rules and restrictions that have been implemented in the past.

Some have been opposed to the state legislature adding restrictions to municipalities regarding zoning on the basis that it takes away local control from the municipality. In reality zoning itself takes away the most basic local control from the property taxpayer.

In closing I would like to say that zoning is very similar in its effects to an older sibling that is put in charge of the younger siblings when the parents are gone. You, as legislators, are the parents. The planning commissioners and Municipal boards are the older sibling and the property owners are the younger siblings. The older siblings many times take matters into their own hands in ways that they shouldn't. In my experience planning commissions and Municipal boards do the same which brings great harm to the grass roots entrepreneurs which are the foundation of a free market economy.

Again, I would like to encourage you to consider your responsibility for zoning and my suggestions as to what can be done to lessen its negative effects.

Thank you for your time. Please let me know if you have any questions or would like to speak more about this matter. There is much more that could be said.

Dan Fleming
Casco Township - Planning Commissioner
269-227-3725
269-767-3168
securingtheblessings@gmail.com

Attachment #4

From: **Casco** [mailto:casco@casco.wa.gov]

Subject: **Lighting Ordinance**

Date: **October 14, 2018 at 1:57 PM**

To: **Dian Liepe** [mailto:dian.liepe@casco.wa.gov], **Lou Adamson** [mailto:lou.adamson@casco.wa.gov], **Dave Campbell** [mailto:dave.campbell@casco.wa.gov], **Dave Hughes** [mailto:dave.hughes@casco.wa.gov], **Judy Griffin** [mailto:judy.griffin@casco.wa.gov], **Greg Knisley** [mailto:greg.knisley@casco.wa.gov], **Dan Fleming** [mailto:dan.fleming@casco.wa.gov]

Just a comment as a citizen of Casco.

What is lighting ordinance trying to accomplish? I think I understand it is to keep our lights from intruding on others. There are so many variables it seems almost impossible to define. Various wattages, motion lights, size of lots, vegetation around property, lights illuminating the American Flag, lamp post and decorative lights people have already invested in. All of the variables, plus personal preferences for different styles seems overwhelming.

Maybe the ordinance should just be as simple as lights should not encroach onto the neighbors property. This does not mean if you look straight at a neighbors lights you won't see a glow, but it should not illuminate the neighbors yard, house or property. The diagram currently being used in the draft ordinance depicts this perfectly.

Let property owners decide if this means shielding with trees, downlighting, back of property away from others, low wattage, etc. Bottom line is don't intrude on others property.

There was some discussion on whether the existing lights would be grandfathered. If I am creating a nuisance or intruding on my neighbors, it would seem like grandfathering would not be an issue. It should be corrected now.

Might be a good answer just to use the diagram and simply state lighting cannot encroach onto neighbors. Once this is in the ordinance, it will give people being bothered by their neighbors lights an avenue to bring it to the zoning administrator.

Thanks,
Janet

Sent from Mail for Windows 10

Attachment #5

From: David Campbell Sr. <davecmich@yahoo.com>
Subject: Fwd: Another Model for Lighting Ordinance-- Saugatuck Township
Date: December 1, 2018 at 7:50 AM
To: Liepe, Dian <liepe@anr.msu.edu>, Davecmich@yahoo.com, Lou Adamson <lou@saugatuck.org>, Dan Fleming <dan@saugatuck.org>, Greg Knisley <gknisley@saugatuck.org>, Janet Chambers <janetchambers.casco@yahoo.com>
Cc: Lynee Wells <lynee@saugatuck.org>

Dear all,

Here's the link to the Saugatuck Township lighting ordinance to review for Wednesday's meeting.

Begin forwarded message:

From: Maureen Perideaux <maureen@brilliantsparks.com>
Subject: Another Model for Lighting Ordinance-- Saugatuck Township
Date: October 4, 2018 at 11:43:07 AM EDT
To: "davecmich@yahoo.com" <davecmich@yahoo.com>
Cc: Janet Chambers <janetchambers.casco@yahoo.com>, "Liepe, Dian" <liepe@anr.msu.edu>, Judy Graff <graffj@i2k.com>

Hi Dave --

As an additional resource, here is at the link for Saugatuck Township's zoning rules on lighting:
[https://library.municode.com/mi/saugatuck_township_\(allegan_co.\)/codes/code_of_ordinance_s?nodid=COOR_CH40ZO_ARTVSURE_S40-649OULIDEST](https://library.municode.com/mi/saugatuck_township_(allegan_co.)/codes/code_of_ordinance_s?nodid=COOR_CH40ZO_ARTVSURE_S40-649OULIDEST)

Since theirs is a similar community to ours in many ways, their language might work well for Casco. Please share this with all the other PC members.

Thanks,
Maureen

Maureen Perideaux

David R. Campbell Sr.

MEMORANDUM

To: Casco Township Planning Commission
Date: September 28, 2018
From: Lynee Wells, AICP
Nathan Mehmed, AICP
RE: **Exterior Lighting: Zoning Ordinance Amendment Draft**

Exterior Lighting

The following zoning ordinance language for exterior lighting was originally developed to address existing exterior lighting issues in coordination with the Planning Commission in February 2018. We have updated our previously recommended exterior lighting language for the October Planning Commission meeting to address concerns with the exemptions language and add preferred language regarding dark-sky compliant lighting. Our changes from the February 2018 version are indicated by highlighting and strikethrough.

SECTION 2.08 DEFINITIONS – G

GLARE

The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility

GLARE, DISABLING

Glare that impairs visibility to the extent that it creates a potentially hazardous situation for either pedestrians or motorists.

GLARE, NUISANCE

Glare that creates an annoyance, aggravation, or discomfort but does not create a potentially hazardous situation.

SECTION 3.39 EXTERIOR LIGHTING

- A. Exemptions. The following types of outdoor lighting shall not be covered by this Ordinance:

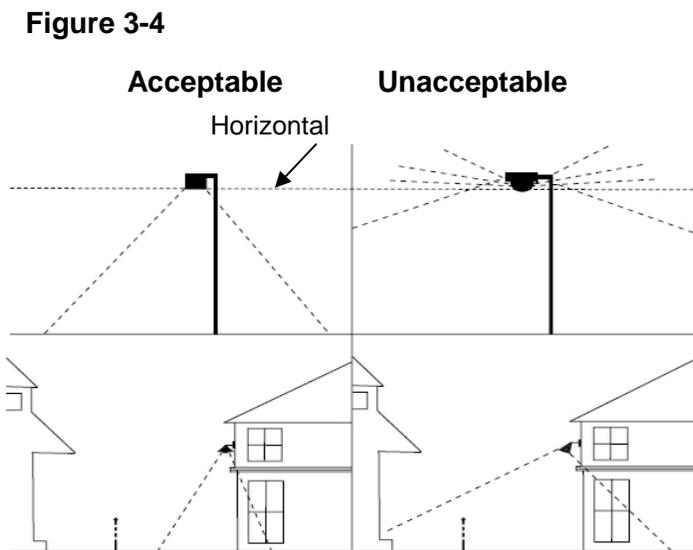
1. Residential decorative lighting such as, but not limited to, porch lights, sconce lights, and low level lawn or landscape lights, **provided that such lighting shall be fully cut-off, downward-facing, dark-sky compliant, and shall not cast glare or light beyond the property line.** ~~and special seasonal lights such as for Christmas decorating.~~ Residential decorative lighting shall not mean unshielded flood or security lighting such as, but not limited to, sodium vapor lights or other high powered dusk to dawn lighting.
2. **Seasonal holiday lights such as for Christmas decorating, provided that such lighting shall not cast significant glare or light beyond the property line.**
3. Sign lighting as regulated by Chapter 19 herein.
4. Lighting affiliated with a farm or farm operation.

B. Regulated Lighting. The following types of lighting shall be regulated by this Ordinance:

1. Parking lot lighting, building-mounted lighting, site lighting for commercial, industrial, multiple-family, institutional developments, and residential lighting including, but not limited to, sodium vapor lights and high powered dusk to dawn lighting.
2. Publicly and privately owned roadway lighting.
3. Other forms of outdoor lighting which, in the judgment of the Planning Commission or Zoning Administrator, are similar in character, luminosity and/or glare to the foregoing.

C. Standards. Lighting shall be designed and constructed in such a manner as to:

1. Ensure that direct or directly reflected light is confined to the development site or subject property.
2. Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way, or the light source is not directly visible from beyond the boundary of the site.



3. The light from any illuminated source shall be designed so that the light intensity or brightness at any property line shall not exceed one foot candle.
4. Lighting fixtures shall have 100% cut off above the horizontal plane at the lowest part of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane, as illustrated in Figure 3-4. No light fixture shall be mounted higher than 20 feet above the average grade of the site, except for approved outdoor recreation area lighting.
5. Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section.
6. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. The permanent use of beacon and search lights is not permitted.
7. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
8. The Zoning Administrator or Planning Commission may impose other reasonable standards to better ensure that the intent and purpose of this Section would be met.

As always, please let us know if you have any questions.

Casco Township

Planning Commission

2019 Calendar

Month	Regular Mtg*	Special/Public Mtg**	Annual Mtg***
January	9th	(16th)****	
February	6th	(20th)****	
March	13th	20th	
April	10th		6th
May	8th	15th	
June	12th		
July	10th	17th	
August	7th		
September	11th	18th	
October	9th		
November	13th	20th	
December	11th		

- *Regular meetings scheduled for 2nd Wednesday of month. **Bold dates for February & August are 1st Wednesday (to be determined at December 2018 meeting).** All regular meetings will start at 7PM or immediately following any Special Meetings if scheduled back-to-back in any month. Only Regular Mtgs.
- ** To be determined by PC Chair & Zoning Administrator based on PC criteria with required advertising and posting on Casco Website as needed. All Special Meetings will start at 6PM
- *** Focus of meeting will be PC operating procedures, minutes review, etc.
- **** To be determined by PC Chair & Zoning Administrator based upon transition applications completed and in hand by December 15th 2018.