

CASCO TOWNSHIP BOARD OF TRUSTEES
MINUTES - SPECIAL MEETING
DECEMBER 12, 2016 @ 5:00PM

Approved 4/17/17

CALL TO ORDER: Allan called meeting to order @ 5:00 pm. And led in the Pledge of Allegiance.

PRESENT: Overhiser, Brenner, Macyauski, Graff, Winfrey & 26 other interested people.

ABSENT: None

REASON FOR MEETING: JUDY REQUESTED MEETING TO DISCUSS A RECENT LETTER SENT BY THE ZONING ADMINISTRATOR IN RESPONSE TO RENTAL COMPLAINTS.

Allan mentioned that since Judy recommended this meeting he would at this time turn this time over to Judy to speak.

DISCUSSION AMONGST THE BOARD:

Judy said she would like to thank the board for responding to her request on such short notice. Judy said she has been on the board for ten yrs. and she has never requested an urgent meeting and I appreciate your assistance and I thank Allan for calling it. The reason why I asked for this meeting is that as many of us recall on our September board meeting we had a discussion about what to do about residents who have complaints about renters. At the meeting in Sept. our ZA, Alfred Ellingsen and our Attorney, Ron Bultje, explained the process. If there is a complaint, then a form is filled out, the form goes to the Zoning Administrator, whom requested evidence of the complaint, if evidence was provided, the next step would be for the ZA to investigate. If evidence was appropriate for AI to send to the property owner, with property address, that that person and property is in violation of the zoning ordinance. In that letter the instructions were to stop renting. They further explained that if the property owner does not comply there would be a follow up citation with fines. If still it was not complied to or responded to we as a township would go to court. Over the last several weeks there have been a number of complaints submitted from our residents about renting. I assumed, your expectations and were mine, that, that process would be followed. That process was not followed which is why I asked for this meeting. Judy further stated that the letter that was sent out, which I got a copy yesterday, Sunday, at noon from one of you and I thank you. The board members have a copy of this letter and some of you have it. But I would like to go thru several items in that letter that I question and have concerns about etc. To what I understand that the letter was offered by AI and was written by Ron Bultje, Township Attorney. Judy said she would like to point out a couple of things in the letter. First of all it is a generic letter it says: **To: Owners of Short-Term Rental Dwellings in Casco Township.** Judy continued to say it was her understanding of the complaint process is that if we submit a complaint with property owners name, address, complaint, that a specific letter would go out to that property owner, that address, that complaint, citation of zoning ordinance, and that's not followed in this letter. It is a generic letter that anybody could of gotten. I could of gotten this letter, so to me that is not following a process. Further down in the second paragraph it says that as a result of the case of Judge Cronin and other similar Michigan cases homeowners who operate short term rentals in residential districts in the township are putting themselves at risk of a law suit from a neighbor. Judy said I didn't realize that our responsibility of ZA or as a township board is to talk about law suits from neighbors to neighbors. Reading further on if the township continues to permit uses which are not authorized by its ZO, it too could be subject to a claim regarding improper enforcement of the ZO, or alternatively it could raise questions regarding the validity of our ZO. Judy said "That's a new one, I have never

heard of a Zoning Ordinance that has been approved by everybody that's suppose to approve it, that there is a question of the validity by the Zoning Admin. Further goes on to say in an effort to appease both sides, I didn't realize we were in the business of appeasing anybody. I thought we were in the business of doing the right thing. Further on in that paragraph we are joining other neighboring municipalities just like everybody else. But we clearly say in our Master Plan is that we are not like everybody else. Next paragraph It appears that the township board is leaning towards adopting a regulatory ordinance. I didn't realize that the ZA could send out communications to our residents on behalf of our township board. That's a new one on me. Specially that this board did not approve it ahead of time.

Going on to page 2. Last paragraph-Does the township consider this matter, this matter isn't a matter, it is a violation of zoning. And as rentals remain arguably an illegal use of property in residential districts. Judy remarked who is arguing the Judge said it is illegal, the judge said we are not enforcing it. The kicker here is this whole letter we suggest that you cease renting. Now is this a letter of violation of the ZO, we suggest? This is why we are here, when I saw this letter, I was furious, and I took my anger out on Allan, so I apologize. Furthermore this letter is very one sided and it is implying that it is okay to rent it is cleverly worded as only attorneys can do. You and I don't write letters like this. Issuance of the letter so general in nature and not approved by this board is inexcusable in my opinion. The ZA does not speak for this board and our attorney does not speak for this board. I repeat the process in following up on legitimate complaints was not followed. It is an insult to every resident who submitted a complaint, did their home work, followed the rules and we changed the rules. Nobody on this board was aware of it. Judy said "I want several things-

1. I want to stop this letter now.
2. I want the Zoning Administrator to follow the process.

I want the standard forms for zoning ordinance violations issued to file a complaint

a. to name property owner, b. property address, c. want the names on the letters so everyone gets a personal letter.

This should not of happened in our township. That letter better say stop renting whatever the rules are, I don't know what the rules are but the attorney said send a letter out and stop renting, give them a time frame if they still haven't stopped by then, send a citation with fines and no response, then go to court. This wasn't rocket science what I heard is great, simple, it is nice to know there is a process. This is why I called this meeting and that is why I called several of you and I asked them if this is important to you then show up. That is why I called this meeting and I'm sorry I'm upset, but I am. "

Allan asked Judy if she was done speaking and she said yes.

Allan explained that the letter was written by Alfred with the attorneys review and some corrections on some things, as I understand it. The one point that I think is coming out of all of this is that this board is going to have to come to some conclusive if whether or not we want to prohibit renting or what do we want to do as far as regulating renting. The law suit was not binding on this township there is nothing in it that binds it. There is nothing in it that binds this township to do anything or simply say that's an interesting law suit and we continue on like we have been for fifty years.

So it is really dependent on what this board actually takes some kind of stands on.

Judy said "That's not my point, my point is why wasn't the process followed, standard process followed by sending individual letters to individual property owners, sighting the legitimate complaints submitted by these residents." Allan said " He doesn't think it is uncommon when there is an issue being considered by the board of the Planning Commission to inform these people of the situation as it has."

Judy said " So why wasn't the board prepped on this, why wasn't the board asked for input? Alfred doesn't speak for the board." Allan stated that the attorney and Alfred strictly understand where the board is at with this." Judy replied, "Oh really, I don't understand where I'm at, what I want is to enforce the Zoning Ordinance."

Allan asked Judy what she wants to do about the rental issue? She replied that isn't why she called this meeting, she called the meeting because the standard process was not followed.

Paul said what he understood back in Sept. when Ron Bultje was here advising us on how to proceed, formal complaints would be written, then given to our ZA to be handled, and our ZA took the first step in notifying the people that were subject to the complaint.

Paul mentioned that he came into the township hall a couple of weeks ago on other business and he was talking to Al and he noticed the stack of complaints that had been turned in and he said every ones complaint was the same. They were complaining about renting in their neighborhood which is deemed a commercial business following a formal complaint. Al took that complaint and did his job. With the help of our attorney they reviewed a letter that would be the best response for these complaints. If these people that received that letter, not the people that filed the complaint, the people that were noted on the envelope, if they were going to continue to violate the ZO, then it would go to the next step. Judy said the process wasn't followed. Judy said when there is a violation of the ZO Alfred doesn't go to our Attorney and write a generic letter and send to x number of people." Judy said Al said he would not accept a complaint without evidence.

Allan said he had not seen the complaints, your saying that all the complaint was that your renting and no advertisement attached to it. Judy said that Al said at the meeting that it was okay to fill out ~~A & B~~ **Air BNB complaint** and that was sufficient enough evidence to file a complaint.

Allan said that he thinks the issue is that is the way of starting this off, we do send them a letter notifying them of a situation or whatever. Judy said that this letter doesn't hold anybody accountable, there is no name on the letter. Judy also said if she had gotten this letter and it didn't apply to her she would throw it away. Lu responded to Judy if your renting your property then it does apply to you. Judy repeated again that there needs to be a name addressed on the letter with property address with a citation, otherwise the complaint process is a generic thing. Judy said that is why she wanted this meeting immediately because she wanted this letter stopped in case of a time frame. If those complaints had evidence there should be specific letters to every property owner in violation of the ZO. Judy continued to say it is in our ZO that commercial renting in a residential district is a commercial business and is no more than 12 days.

Paul mentioned that while him and Judy sat on the planning commission for a number of years working on this, and never once did anybody mention renting. We talked about commercial business like Cabelas, or Wal-Mart we never once mentioned renting. Now someone comes thru and says short-term renting is a commercial business, now our definition has been re-written by a judge, it is not the definition that we wrote sitting around the table in 2006. A judge made that decision. Judy stated that our attorney sat in this room at a board meeting with these people saying that we are specifically in violation with our ZO the judge said you can rent until Labor Day weekend. Allan said to Judy the judge said many things that day first of all we can do nothing, we are not bound by this decision, so we could do nothing, we have an ordinance that he stated was not written to prohibit renting, so we have a problem with our ordinance. I think Dan on the Planning Commission would agree that we have a problem with our ordinance and it needs some work.

Allan said he thinks Alfred has written a letter that accurately depicts what the board is doing, and what happened in Sunset Shores it may not have enough fire and brim stone in it or punitive type language, he thinks it accurately communicates to those that are renting that you may have an issue and you may not even be renting. Judy asks is it common practice for the ZA

to send out generic letters with nobody's name or address on it? Allan said it isn't common practice to get 50 complaints at one time. If we get one complaint than it goes to one person. A letter is not uncommon to start the process. Allan replied the problem of it is this board needs to take a position on what the policy should be for this township. Either were going to prohibit renting or were going to allow it or allow it with regulation, we need to take a position. We can send that policy to the ZA or to the Planning Commission if that is what we want then have them look at it. We have an ordinance that was written without any intent prohibiting renting so we can send this policy to our ZA. We are trying to be proactive in the decision of sunset shores, and right of the appellate cases that are in the State of Michigan that are leaning in this direction.

The process of doing that is what Alfred did in sending this letter and he accurately stated that. Judy said in the meantime she wants this letter stopped and she wants the normal process followed. Judy said she wants to make a motion effective now to stop sending this letter out. Allan asked if there was support to the motion. No support. Motion dies for lack of support.

Allan said we have a very good Zoning Administrator that has been with us for 10 years and he will do anything that we want him to do. Because this is a special meeting we are not going to have any motions tonight at this meeting to approve. At our next meeting on Monday 12/19/16 where anything can happen. Judy said because she didn't specifically ask you to set up a meeting to potentially make some decisions we can't approve anything. Allan said he didn't know we would be making zoning enforcement decisions. Judy said we aren't making enforcement decisions she wants to make sure that a process is followed by the ZA.

Judy stated that she is waiting for, and has not received, a written process in what is involved in enforcing our ZO. She wants to know why there is not a standard process for enforcing the ZO so everyone knows what the rules are. (Which ones are going to be followed and which ones aren't going to be followed)

Allan asked Judy is what you want to know what it would take to enforce a zoning complaint from start to finish? Judy repeated to enforce the current zoning ordinance.

Allan stated he has asked the attorney and Alfred to come up with something.

Judy said the current ordinance is not being enforced today including the noise ordinance.

Allan said we are enforcing our noise ordinance and people coming here and saying were not is not true. Allan further said we have to come up with a decision to direct Alfred in what we want him to do with this issue and this letter is a good process to start. Judy said she disagreed.

Bill Sill: Asked if there was any way to set up a curfew for public drinking?

Chris Barzck: Discussed the regulatory ordinance that was presented at the Nov. 2016 meeting.

There was a lengthily discussion on regulatory ordinances whether they relate to land use or not.

David Campbell: Mentioned he had 18 complaints from Glenn Shores Subdivision that he will be turning into the township and he will be disappointed if that letter is all that is sent out. There are several multi-family homes that advertise for rent.

Sharon Curtis: Complained that they live around noise 24 hrs a day. She doesn't feel she is being protected.

Lois Swartz: Discussed the developers coming into the subdivisions and building big homes specifically for renting and these are the rentals that are causing the problems. She would like assurance from the board and not just from one trustee that you are looking out for the comfort of the residents.

Carl Swartz: Remarked that you cannot enforce renting that we would fail it is impossible.

He said that Mt. Pleasant has limited the renting to (7) seven days at 4 times a year.

Priscilla Massey: So many houses have been built for renting and these homes were taken out with a building permit as a family home permit. What benefit does the township have to having short term rentals?

Kathy Watts: Said she would like to thank Judy because she feels that she is the only one on the board that is protecting her rights. She said she hears the board talk about regulation and that makes her blood boil because we haven't heard the word violation and she feels very violated. Second she wants to know what percentage of tax payers live in South Haven that live south of the highway? What part of the taxpayer money is west of Blue Star Hwy on the lake shore these are the people that carry the power and the board is ignoring us.

Bill Jackson: Stated the township is not respecting the court case and the Judges' decision is dangerous.

Greg Haas: Greg stated that in Glenn Shores there are 18 homes he found on the internet for rent with a new one that was the old Glenn Shores Club House.

Ron Seiler: Ron stated that short term rentals are not defined in our ZO and short term rentals have been here in Casco for decades.

Lois Swartz: Lois asked if when we say be fair to all does that mean be fair to the ones that are causing the problems?

Allan stated that no not if they are causing problems.

Judy made motion to adjourn. Paul seconded.

Meeting adjourned @ 7:25pm

Minutes Respectively Submitted by:
Cheri Brenner, Casco Township Clerk