

**CASCO TOWNSHIP PLANNING COMMISSION**  
**RENTAL WORKSHOP**  
**August 16, 2017**  
**6 PM – 9 PM**

**Members Present:** Chairperson Dian Liepe, Dan Fleming, Greg Knisley, and Dave Hughes and Judy Graff

**Absent:** None

**Staff Present:** Janet Chambers, Recording Secretary

**Also Present:** Lynee Wells, Planner; Paul Macyauski; Supervisor Overhiser; Cheri Brenner, Clerk and approximately 20 interested citizens (Sign-in Sheet attachment #1)

1. **Call to order and review of agenda:** The meeting was called to order at 6 PM by Chairperson Liepe. Agenda item #7 Discussion on possible regulations to forward to Township Board - including rental insurance, was moved to the August agenda.

2. **Opening comments by PC members:** Graff brought attention to Michigan Townships Association's August issue. Milton Township in Antrim County is having a major disruption from STRs. Housing is being occupied by more than they were built to handle. Graff recommended reading the article. Graff highlighted the following from the article:

- While not every short-term rental is a problem, a growing number of them are causing major disruptions
- The problem is really simple. There are people on the lake who can rent their house for \$2,000 to \$6,000 per week. If you rent it to me, I 'm going to have a lot of fun and have a lot of friends there. There will be a lot of cars and a lot of noise, I f I'm a person who has a house adjacent to that house, I'm not happy.
- Volume of guests is over capacity for septic systems, and more than the houses were built to handle
- The issue escalated until the board created a police power ordinance requiring an annual permit for all short-term rentals, with each landlord required to show a site plan for parking and sleeping facilities as well as proof that they've had their septic system pumped within five years.
- They have a "disturbing trend" of out-of-town, or even out-of-state investors buying up properties and remodeling them to house s many guests as possible
- Today the township restricts the maximum number of people permitted in a huse, with a seven-day minimum for rentals and a paperwork filing requirement
- All rentals are required to have a contact name and phone number for someone who can be reached 24 hours a day.
- Ordinance enforcement is largely complaint driven
- Boards who have decided to regulate short-term rentals have done so in response to their residents' requests

3. **Public Comment:** John Barkley stated the importance of having a maximum number of STRs established to keep a residential atmosphere. The maximum number of times a house can be rented per year, maximum occurrences per year, maximum number of people. A tipping point of when these variables destroy the residential fabric of a neighborhood needs to be determined.

Valerie Bass said at night when windows are open smoke from camp fires make it hard to breathe. Her smoke alarm went off at 1 AM. Campfires must be restricted somehow. In a 200' block in Miami Park, there can be 6 campfires.

Chris Barczyk, concerning the objective of preserving neighborhoods, said builders coming in and taking over neighborhoods needs to be controlled. Corporations have the means to do this, and it makes financial sense. What limits can be set to prevent this? We are witnessing this happening elsewhere in the state. Barczyk brought up that B&Bs are limited to being 750'. He suggested STRs be limited to houses where the owner occupy the home at least part of the year.

Graff said she is concerned about the Lake Michigan shoreline. How much rental is enough before neighborhoods become business. This is not a new issue, and the planning commission needs to work on this. She said Mary Campbell has research on how to limit Casco's exposure to problems.

Lois Schwartz echoed what Barczyk said. She is very concerned about rentals that are purely commercial. Homes are being purchased and constructed specifically as businesses.

Mike Torte disagreed with having a minimum number of night on STRs. He did not think is enforceable. He did not feel renters staying 2 or 3 nights exhibited bad behavior. He felt that was based on assumptions and hearsay.

Valerie Bass stated there were 14 contiguous lots on a 30' loop of Miami Park. A developer wants to build numerous rentals. She asked that regulations are put in place as soon as possible to slow down the building of commercial rentals.

**4. Approval of minutes 6/28/2017 (Workshop Meeting):** A motion by Fleming, supported by Hughes to approve minutes of the June 28, 2017 workshop meeting as printed. All in favor. MSC.

**5. Report from Citizen Advisory committee (Allan Overhiser or Mary Campbell):**

Mary Campbell said the Citizen's Advisory Committee met last week. Items discussed were:

- There needs to be improvement on the complaint process. There needs to be a single point of contact.
- There needs to be a regulatory ordinance for fireworks. Supervisor Overhiser will discuss at next board meeting
- Golf carts are not permitted. This needs to be looked at.
- Pictures or recordings of complaints are helpful to document the complaints
- Not as many complaints as other years. Cool weather may have helped keep complaints down
- Enforcement needs to be looked at.
- Property management companies should register
- Septic capacity should be looked at. The health department has not been a big help with this. When there was a problem with septic oozing up out of the ground, pictures, neighbor complaints of odors, etc. did not help. The health department had to be present at the moment the problem was occurring or they would not do anything.

Mary Campbell shared research on Allowing Short Term Rentals while Preserving Neighborhoods (attachment #2). Her research included approaches used to control the number of rentals to maintain residential qualities of a neighborhood. She included links to provide more detailed information.

Approaches used to maintain residential neighborhoods were:

- Lottery- for a specific number of years
- Prohibited zones – some zones STRs not allowed. Some zones required Conditional Use Permits.
- Quotas – from 3% to 30%, some varied by district
- Distance between units – Some were one STR per street, some a required distance (ie 500') between rentals
- Permanent Resident Restriction – Owners of STRs must be a permanent resident
- No more than one rental per owner - with LLC or partnership consideration in some locations
- Conversion to Homestay – Owner must be present with one bedroom reserved for the owner
- Septic Capacity of the Property – Once compromised, ground water issues last generations.

Graff stated there are many communities with concerns about the impact on their residential communities. There are many options for controlling the volume of STRs.

Supervisor Overhiser gave a report on complaints (attachment #3). Complaints were put into 11 categories, ie. Noise, parking, fireworks, etc. Overall complaints were minor, but some may not have been called in.

Mary Campbell said there probably needs to be more clarity about acceptable noise. Sometimes it is the discretion of the officer.

Graff asked how many citations were issued. ~~That information was unknown.~~ No citations were issued. Overhiser said the noise ordinance is in evolution, the officer and dispatch are onboard. State police are not going to do anything.

Graff questioned if all calls were tracked in one place. Mary Campbell stated Kathy Stanton summarized 28 complaints. There were some things such as a letter from Boardwalk with complaints, as well as complaints made at meetings that would not be included in the report.

John Barkley (member of Citizens Advisory Committee) said some complaints went to Kathy Stanton, Officer Katje and the State Police. Barkley is looking forward to better data with a single point of contact.

Knisley said, like the sewage over the road issue mentioned earlier, if a violation is not still happening when police arrive, at what point does something have to be done? If someone complains about fireworks that happened an hour ago, will it be addressed?

Mary Campbell said there were multiple complaints against one address. When there are chronic problems every weekend, it should be addressed.

Supervisor Overhiser said that would fall under rental rules as Habitual Problems.

Chairperson Liepe praised the Citizens Advisory Committee for all the good work they did on the Good Neighbor Policy, identifying rentals on maps, data collecting, etc. They have put a lot of work and time into STRs and Liepe thanked all they have done.

**6. Planner review the draft from 6/28/17 she has developed. Review the answers to questions by Township Lawyer and PC members discuss.** Wells went over a memo from Atty. Bultje (attachment #4) concerning questions the PC asked her to check into. Discussion ensued about #1.

#1. How does Grandfathering apply if STRs are allowed? Because rental was not previously a permitted use, grandfathering does not apply. Discussion ensued as to whether STRs existed in the past and Wells stated it was never "lawfully" permitted. Knisley asked when zoning started in Casco, and if a rental existed at the time zoning started, could it be a grandfathering situation. Fleming did not feel the question of "pre-zoning rentals" being grandfathered has been answered. Overhiser stated Casco zoning started in the 1970s. Knisley questioned whether grandfathering pertained to a building or the owner. Wells stated grandfathering pertains to a "use". At end of discussion Graff stated grandfathering is not automatic. This was why we asked for a legal opinion in our situation.

Knisley said there should be more discussion on this. Liepe said it might be a court matter.

Wells led discussion through the Rental Amended Draft. (attachment #5)

On page 2 #6 **Signage**. **"Each property shall have an address number clearly visible from the driveway intersecting the public or private street accessing the subject site."** This was added by request from the audience.

Page 2, B 1 a **If the short term rental is owner-occupied, and the owner is present on-site and in-dwelling during the entire time of the rental period, ....**

Graff was concerned people would say they were going to be present when they are not. This area could be abused.

Page 3, B 2 a **Maximum Occupancy. If the short-term rental is owner-occupied, and the owner is present on-site and in dwelling during the entire time of the rental period, no maximum occupancy.**

Graff said this should be deleted. Chairperson Liepe said when an owner is present there is not problems. Why penalize them? Graff said even when owners are present, there can be problems such as noise, parking, etc. They could have 20 people, making money. It is not fair to other rentals. Fleming said he takes exception telling someone to limit the number of people in their house. Graff felt a standard that applies to all would be more enforceable. Chairperson Liepe said if the owner is there, it could be renting or a family get together. Graff stated the exchange of dollars is the difference. Knisley stated we regulate B&B to have the owner present, but it is not unlimited number of occupants. With B&B the number of guests is based on the size of the lot. The maximum is 10 guest rooms.

Graff asked that items that need further discussion be kept in a "parking lot items" list.

Knisley asked that "**or less**" be added to Page 1, Section 2.13 Limited Short Term Rentals as follows: The rental of any dwelling for a term not to exceed 14 days **or less** in any calendar year.

Knisley questioned whether under Section 3.39; A 6 Building Code would hold up for older cottages. Wells said you could have the owner sign off on this so that the township would not be liable. Graff said the issue behind the statement is health, safety and welfare. Chairperson Liepe said, because of liability to township, they must comply. If they don't comply, they don't rent. Fleming said Michigan building code does not require updating everything. Hughes said if you are giving the stamp of approval, they must be up to date. The issue of ADA was discussed and whether it would apply to rentals. Graff suggested it should read "**Michigan building code for single family dwellings.**"

Discussion continued about how to enforce the Building Code section. Graff said she liked the article about site plans. Wells stated it could say "**The township reserves the right to inspect.**"

Page 3 B 4. Owner's agent. The owner or owner's agent shall be capable of being present at the property containing a short-term rental within an hour of be *notified* to be on-site. Graff questioned "Notified by Whom". Could this be law enforcement, a neighbor, who can summon the owner/agent to be on site?

Mary Campbell said the process is not defined. Neighbors are being asked to call 911 when there is a problem. This may need to be explained further in the regulation.

Graff suggested "**to be notified as determined by township or other applicable agency.**" Be added to B4. Owner's agent. Chairperson Liepe said that would leave it to be further explained in the regulations.

Graff asked that on Page 1, Section 2.13 Long Term Rentals, "**in any one calendar year**" be added.

Discussion ensued about Section 2.16 Owner and Owner Occupied. An owner could be a company, LLC or Trust. "**A person or entity holding legal or equitable title to the premises.**" was considered. Owner-Occupied might need words "**when rented**" added as follows: A dwelling which is inhabited by the owner **when rented**.

Graff asked Wells about a question that came up with Jensen's campground. Supers used the term "motel" when referring to cabins. Knisley stated this was because of state law, and had something to do with the amount of rooms within one building. Wells stated this has nothing to do with STRs.

Section 3.39 B2d Add "including the beach" as follows: No tents or campers for lodging shall be permitted in LDR, MDR and Lakeshore A and B "**including the beach**".

Also add "including the beach" to Section 3.39 B2c: If located in LDR, MDR and Lakeshore A and B, no daytime or overnight guests permitted "**including the beach**". Graff said this is necessary because in some subdivisions the beach is common property guests do not look at property lines and who owns what.

Graff said **Overnight Guests** needs to be defined.

Graff stated that Jensen's campgrounds has very good rules and they define guests and visitors. Graff asked that Wells be provided with a copy of Jensen's rules. They have done a good job and Casco should take advantage of what they have done.

Page 3 #5, Registration and Certification. Discussion ensued on wording and frequency of registration. It was decided to remove the 2<sup>nd</sup> sentence "~~re-registration and recertification shall be required every to (2) years~~"

Page 3 #6, Notification to neighbors: "**every time there is a recertification**" added to end.

Discussion ensued about saturation and the PC's objective to preserve residential neighborhoods. Chairperson Liepe said it would be difficult to set a percentage of rentals, but may be good to protect areas that don't already have a lot of rentals going on. Wells suggested looking at the report Mary Campbell put together.

Graff reminded commissioners the PC is to focus on land use, not behavior. The PC deals with proper use of land and how to use districts. It is not the PC's job to deal with the soft issues. She added "that does not mean ignoring complaints". If something is allowed today, and later determined to be a problem, it is grandfathered in, so the PC must be careful when deciding to allow something.

Chairperson Liepe said the ordinance should not be too loose but not too restrictive. Neighborhoods change, hopefully for the better.

Fleming said he prefers the least intrusive ordinance. He believes in principal of property rights and freedom, innocent until proven guilty. He wants to avoid limiting unknowingly by making it too strict.

Discussion continued, many things in zoning are not worth going to the meetings. We take it as no problems because we don't hear the complaints. Graff stated people at the meetings are mainly from saturated areas. We cannot ignore the relevance of saturation.

Knisley thought a lottery could be difficult to handle. Who would determine who is going to rent this year? He also mentioned that the rules for Jensen's campground were made by the patrons, not the owners. This shows the rules were based on things that were annoying to people living there.

Graff said if we don't deal with saturation now neighborhoods will get worse. If people comply with the rules, that does not mean the neighborhood will not change to commercial. Developers including developers from China are coming in and buying and selling all the property. We have to deal with this in some way, shape or form.

Hughes added we must stem the tide some way

**Parking Lot Items:**

1. **Grandfathering**
2. **Owner occupied or homestay**
  - a. **Proof of owner occupied**
  - b. **Maximum occupants**
3. **Overnight guests**
4. **Fire pits**
5. **Number of occurrence**
6. **Site Plans**
7. **Septic systems**
8. **Saturation**
  - a. **Lottery how to deal with and establishing a ceiling**
  - b. **Distance requirements**
  - c. **Percentage in districts**

**9. Fire Pits**  
**10. Owner / Entity**

**7. Discussion on possible regulations to forward to Township Board - including rental insurance:**  
Moved to August Agenda

**11. Public Comment:**

Lois Schwartz understands Fleming is weary about how the ordinance will affect rental owners. She asked that he consider protecting the great number of people who do not rent. She would like clarification on “persons” or “entity”. Does that mean allowing purely commercial rentals? This is very important because many people’s biggest concern is commercial enterprises building or purchasing for the sole purpose of business.

Graff asked that “owner / entity” be put in parking lot for further discussion.

Laura Townsen said people have not been coming to meetings because it has been such a long time. Police reports were relatively minor. Behavior is a problem. As far as commercial, make laws and change it. You will regret it if it is too strict. “Entity” could refer to the same family for 100s of years, kids, grandchildren, etc. Too strict could shut doors to all of that.

Mike Torti said this was brought about by a court case. He has customers asking if they can come back next year. He asked that the PC let him know if he will be able to rent another season.

Ron Seiler, 71<sup>st</sup> Street, asked if the present Zoning Ordinance permits renting in residential neighborhoods. Graff said the Casco Zoning Ordinance does not allow renting anywhere. There is currently a moratorium for this season against enforcing STRs. Seiler said beach tents, no camping, and a number of regulations are an overreaction to a few things that are not handled in the zoning ordinance.

Daron Massey, Miami Park said as of October 1<sup>st</sup>, rentals will be banned. He said the PC has been working on this, it is now August and they are still dealing with. They need to get this done if it means working 9-5 every Saturday. The PC needs to make motions and start pulling things off those parking lots. They need to make motions, vote and record it when the documents are completed. People are tired of this same meeting 16 times.

Ruth Skidmore, attorney for the Sunset Shores plaintiffs, offered that the Board’s understanding of the decision in that case appears to be misinformed. The Court’s decision only addresses short-term rental operations as incompatible with single-family residential uses as defined by our Court of Appeals and Supreme Court. True residential renting –typically meaning a month to month or longer tenancy-- is consistent with a residential character and is therefore already permitted under zoning allowing for single-family residential use. Similarly, incidental renting (less than 14 days a year) does not change the residential character of an otherwise owner-occupied property and does not pull the property out of qualification as a single-family residential use. The Sunset Shores decision, consistent with Michigan law, holds that transient lodging operations do not qualify as single-family residential uses. They are commercial business operations.

John Weaver, a Miami Park property owner for 16 years, said the PC is talking about preserving the residential neighborhood. There are eight people saying it is a neighborhood. It is a beach community, very seasonal. To think Miami Park is a single-family neighborhood is wrong. He asked if anybody looked at the average number of people in a rental. Limiting to 10 will mean some of his customers cannot come back. It should be regulated by building size. It is getting way to restrictive and is not relative.

Chris Barczyk referred to the discussion on owner occupied rentals. He asked how it differs from B&B? Fleming replied that we (the PC) don’t know. Numbers were picked out of the air. That is how

zoning works. Barczyk said it really need to be looked at for consistency. It is opening a Pandora's box.

Chairperson Liepe said owner occupied is in the parking lot to be revisited as to how it relates to B&B.

Mike Lynch asked about page 3, #3 of the Rental Amendment Draft on Overnight and daytime guests. He asked if this is just for STRs and not property owners.

**12. Closing Comments from Commissioners and Adjournment:**

Fleming said the problems are coming from areas where there are already deed restrictions. He understands there are problems, but why is it the whole townships problem that the restrictions are not working?

The PC should see what the deed restrictions are and at least look them over.

A motion by Fleming, supported by Graff to adjourn. All in favor. Meeting adjourned at 9 PM.

Next meetings

Rental Workshop – Wednesday, August 30, 2017, 6PM

Regular PC Meeting – September 6, 2017 7PM

Attachment #1 Sign-in Sheet

Attachment #2 Mary Campbell research on Preserving Neighborhoods

Attachment #3 Complaint report

Attachment #4 Memo Attorney Bultje 8/16/17 Re: STR Matters

Attachment #5 Williams & Works draft 6-28-17

Minutes prepared by Janet Chambers, Recording Secretary