

Milton Township  
Planning Commission  
Unapproved Meeting Minutes  
August 13, 2019

Members present: Chairman Hefferan, Kingon, Cole, Merillat, Lefebvre, Murphy and Kopkau.

Also present: Weizapfel, Atkinson, and 27 audience members.

Hefferan called the meeting to order at 7:00pm.

Approval of meeting minutes dated July 9, 2019.  
Minutes approved as presented by **unanimous consent**.

Agenda:

1. Public Hearing for Vacation Rental Ordinance.
2. Set agenda for September meeting.

Public Comment:

No one wished to speak.

**Motion** by Kingon to approve the agenda. Seconded by Cole. **Motion carried**.

1. Public Hearing for Vacation Rental Ordinance:

Hefferan opened the public hearing for Vacation Rental Ordinance 113-000 version 11 dated June 12, 2019.

Hefferan discussed the process and procedure for public hearings.

No commission member has a conflict of interest.

The meeting was advertised in the Elk Rapids News on July 25, 2019.

There is no applicant for this public hearing, therefore the subcommittee will give the presentation.

Kingon recognized the other subcommittee members of Tom Cole and Joe Merillat. Kingon went back through the history of this issue. He wrote up a few pages and read it aloud. It will be included as a part of the minutes.

Weinzapfel said today's amendment is 01-2019 to the Milton Township Vacation Rental Ordinance #02 of 2012 as amended.

Questions for information only:

Heather of SW Torch Lake Drive asked if this applied to homesteaded properties. Yes, it applies.

Kathy Witbrot: What is the number of units prior to 1975? Weinzapfel said perhaps 4, but it is

unknown.

Sandra Linninger of Kewadin asked regarding page 9, part B, there are several numbers left out. Is that intentional or an oversight? Kingon said the section was reformatted.

Amy Russel of 11868 Cheney Drive said her property has been in her family for 100 years, but they are not sure if it is part of the exception in 113.105B1. It is not a full-time residence. She does not think we should limit her rental to 6 weeks because it would not cover the taxes or repairs. Hefferan clarified the question as to if her home would be exempted and she should check with Weinzapfel.

Dennis Fitzpatrick of W. Torch Lake Drive said we are looking at a long-term thing here. This area is unique and there is the ability to generate a lot of income. Hefferan said these are questions for information. What are the safeguards to prevent someone from saying their relatives are using it? The second question is when you get to a person renting without a permit, they can do it for two weeks, and then apply for a permit and then rent for six weeks. In terms of the standards violations if there are 14 people and the limit is 7, are there 7 violations or 1? How are the violations recorded? When discussing penalties for more than 2 weeks, the penalties are spelled out, but if someone's permit is suspended, the board may take civil action, what does that mean?

What are the safeguards to keep them from saying relatives are staying there? Weinzapfel said Host Compliance should help us determine if the house is being rented to relatives or to others.

If it is rented for two weeks, then you get a permit for additional six weeks? Kingon said if the intent is to rent for three weeks or more, the first two weeks rented would be included in the total weeks allowed.

How are violations recorded? Kingon said it is based on incidents. If it was done the next day, that is another incident and one violation. If it is done twice the following week, it is another violation and a revocation of the permit.

What is the civil action? Weinzapfel said it would be filed with the courts.

Gail Campbell Ferguson of Ringler Road: Regarding 113.105, how many times you can rent per month. How is the four-week period defined. Kingon said when we are putting the ordinance together, it was two weeks in July, two in August. Cole said if someone is going to rent and trying to balance with neighbors, they did not want all of summer to be consumed. The neighboring homeowners should have the right to live in an area that does not have renters.

Sarah Toth of Stallman asked regarding the fine. Could this be added to the tax bill? When we first moved to the area, we rented a place that had partying going on next door, it feels very strange when it is like a hotel next door.

Cole said he does not know that we have the authority to add that kind of fee to the tax bill.

Jerry Sorgie asked regarding the six weeks, I thought you allowed it if it was the same family for six weeks straight. Kingon said yes. That is correct.

Mike Mullins of Cairn Hwy disagreed with the exemption to the number of rental weeks allowed properties in the village zone. If they are permitted to put up a hotel, they would have to build a hotel to commercial standards. We are allowing people to use residential units in a commercial way. Will this be addressed in the future? If not, why? Kingon said the issue is if we are permitting motels in villages and they have no restrictions on weeks, rentals should not either. The dwellings being rented in the village still must be permitted. The minimum stay is seven days. Hefferan said it did not seem fair that if you own a home next to a motel, that we could tell you that you cannot rent your home out despite being in the village zone which allows for more commercial activity.

Sarah Toth asked if there should be a sign outside in the village zone that identifies it as a rental? A neighboring buyer may not know if they move here. Lefebvre said it is the buyer's responsibility. It is public record and there would be a list at the Township.

Carl Sheely asked what about deed restrictions in subdivisions? Weinzapfel said we are not responsible for deed restrictions. The ownness is on the homeowner. Although the township allows rentals, your subdivision may not.

Jerry Sorgie: In order to eliminate problems, it should be written into the ordinance.

Written correspondence received: Merillat read each letter.

Letter from Dennis Fitzpatrick regarding his potential concerns within the ordinance.

Letter from Laura and David Atkinson which oppose short term rentals.

Letter from Jerry Sorgie regarding deed restrictions on short term rentals.

Letter from Dr. Rose Hamway regarding rentals in her area.

Those speaking in support of the proposed ordinance:  
No one wished to speak.

in opposition: Merillat read each letter.

Letter from Heather Webber in opposition to the ordinance.

Letter from Ed and Janie Odegard in opposition to the ordinance.

Letter from Dr. Rose Hamway regarding a request to stop issuing permits for short term rentals in residential subdivisions.

Those speaking in opposition:

Gail Campbell Ferguson of Ringler Road said page 4, two individuals per room. I understand you want to limit the floor space being used, but what about rooms that have bunkbeds with this ordinance? Cole said this is talking about the total overnight occupancy. Kingon said two per bedroom or 10, whichever total is less.

Sandra Linninger of NW Torch Lake Drive: They bought their home in 1988 and they expected R1 neighbors. She does not rent it. If we wanted all the activity associated with rentals, we could have bought a condo in Traverse City. Renting brings in a lot of money and I know why people push the limits. These big houses that are constructed for renting, if they are like us, they couldn't afford to pay what the rent is, so they share the expenses with other families, and they are over the limit of 10 people. I wish you could possibly reconsider the number of weeks and make it even fewer possibly 4 weeks and remember these people put an extra strain on the septic systems along the lakes. You have done a good job.

Amy Russell opposes the ordinance because they've rented the property for 50 years. The same people rent year after year. Now I'm not going to be able to rent our property that isn't a big home and I feel like my rights are being taken away. People with money can buy across the street from me.

Barbara of S. West Torch supported Amy Russell and she said Amy's renters have never been a problem. There are others that are non-homesteaders that are not behaving responsibly. It depends on the homeowner and who they rent to. It is not a blanket that renters equal bad. It all depends on the homeowner and many other parts of the equation. How does renting for several days improve the quality of life as opposed to a week? It seems arbitrary and random.

Heather said she grew up on Torch Lake for 40 years. As homesteaders, we had 40 people around all the time. Life was a party. It is not just the renters. Whatever your age, you never know where you will be at some point. You could end up in a home and you may be forced to rent your property to pay for your care. You do not know where you will be. Life happens. It would be unfortunate to be controlled if we are trying to care for our parents and we do not have the right as citizens to take care of our loved ones.

Jerry Sorgi asked regarding the additional nutrient loading on the septic tanks. Did you think about requiring septic inspections with the rental permit?

Richard Gray of NW Torch Lake Drive: Several years ago, they had renters next door, but there were occasions where things got scary. For some time, I have had a concern that goes to safety. It is not an objection to the current ordinance, but it is an omission for safety. I have a lovely family and my issue is that in any location that I may live on a permanent basis, with a phone call, I can find out who in the area is a registered sex offender. I do not think there is any way I can determine that if there is a renter who is a registered sex offender. I have talked to police departments and it is a Michigan State Law that a sex offender staying more than three days must register. I as a neighbor to a rental property, I should know if there is a registered sex offender

renting the property. I assume this is an omission. It should be the responsibility of the property owner and they should vet each person staying at the home and neighbors should be notified if there is a sex offender renting next door.

Ryan of Kewadin said that the six weeks is too narrow. I do not think we need to restrict for the fall, winter, and spring seasons. I do not understand the restriction for the other seasons. I would suggest restrictions for each quarter or season. As of right now, you are taking money out of the community's hands.

Mike Mullin of Carin Hwy: There is good and bad with this ordinance. Regarding units in the village zone, just because they dwell in a home in the village zone, they should not be given preference. The only thing that is different is the timeframe. You are showing favoritism. I do agree about pressure on the septic systems. These homes that are being used, you have a limit of 10 people, the septic systems have never been policed. The health department says two people per bedroom. The policing needs to be enforced somehow.

Fred Guilk of East. Elk Lake Drive provided a handout from the Michigan Legislature MCL123 Act 226 of 1988 Section 123.411. Milton Township does not have authority over private property. Gulik read from the document. He does not believe Milton Township has the right to restrict private property. We cannot keep writing ordinances and making people come and get permits and telling people they have to comply with the ordinance. He is in opposition to the ordinance and he requests we send the ordinance to the Michigan legislature.

Dennis Fitzpatrick said he hopes that the board read the link regarding what has happened in Sonoma. There is the possibility for people to make a lot of money. He has some qualms with the ordinance, but if we all got what we wanted, we would not be sitting here. He does not agree with Weizapfel regarding the compliance company being able to tell if renters are family. It is a concern. 75% of the people renting do not have permits.

Mike Whitfoot of SW Torch Lake Drive thanked the board for their service. I know a lot of work has gone into this ordinance. There is good here, but I would like to share that the current version is not reasonable. We have other season through the year. Six weeks is not reasonable going forward. I hope the takeaway tonight is that the current version is not where many of us homeowners would like to be. All of us are looking for a reasonable compromise.

Hal Burnett of NW Torch Lake Drive: Much of this deals with the commercial aspects of renting. We rely on these people to be stewards of the lakes. We rely on you to weed out the bad renters. The properties that are out there, the septic cannot hold them. Four weeks is plenty. Six weeks is too many.

Barbara Fitzpatrick of NW Torch Lake Drive said she heard from someone who had 45 people at a house on Elk Lake.

Heather said she would like to see more enforcement before we start further restrictions.

That portion of the public hearing is closed, and the planning commission began deliberations.

Kington said this is a conundrum. No one stood up in favor. Some are in favor of restrictions and some people said it is not restrictive enough. I am not getting a good feel. Some feel six weeks is too many and some feel it should not be regulated at all. Also, there were many good points.

Lefebvre said she would like to point out that as a planning commission we are guided by the Master Plan. That is developed by the public. The original intent was to provide some kind of revenue to offset taxes and renovations. Nowhere are we directed to do that in any way shape or form. We do not have to do this. We cannot do it for one group and not for everyone else. We are hemmed in by our own Master Plan that it does not give us rationale to regulate this issue right now. When I look at the concerns, there was nothing about residential properties in any of these issues. I think we have a new issue, something we have not looked at in our master planning efforts. We are talking about homes around the lakes. Identify our concerns about rentals and build something we can structure an ordinance around.

Cole said the idea of residential versus commercial is what we are wrestling with. If you have a negative or unpleasant neighbor who is an owner, you have them 12 months of the year. If you have a bad renter, you have them for 7 days. With renting, you have someone who is coming for seven days and you come to vacation. You are going to be active, more so than someone who is there year-round. Then, in comes a new fresh renter. That influx of renters may impact the overall character of our township. The idea behind village versus R1, that relates to the activities allowed in that zone. Commercial is allowed in a village zone. Not in an R1. We agree that there are too many people in terms of the pressure on the septic systems, but there are only a few ways to control this. One way is the number of weeks. One is by the season. We do not have much demand after the summer season. Whatever rules we come up with, the rule will apply to everyone. We cannot write a rule for individual circumstances. It gets difficult to write a rule that is fair to everyone. No matter what we come up with, there will be some “what ifs”.

Murphy said he appreciates everyone coming tonight. One thing that hit him tonight was the environmental concerns brought up tonight. We talked earlier about a particular property and all the cars and campers in the yard. I do not think the septic system can handle the influx of people. I appreciate the comments about that.

Kington said the health department was not in the position to do those inspections. If a neighbor see something on the ground, they should call the health department.

Merillat said we were trying to take a long-term approach. When we wrote the original ordinance, the rental websites were not available. We do not want to see commercial activity in the R1 zone.

Kington said Elk Rapids has so many rental homes in the village that young families cannot afford to buy there. Enrollment is going down in the schools.

Hefferan said the health department doesn't have the manpower to review our rentals. In regard

to the Master Plan, he referenced chapter 8 regarding the local economy one of the goals is to allow but control home occupations without altering the character. I feel that is on point with the balance of renters and property owner's rights. The Master Plan also talks about attempting to avoid conflicts between landowners. He appreciates all the comments here tonight. Regarding Ryan's comments about different seasonal rentals; we concentrate on summer, but there are other seasons. That is a good point.

Kopkau said she agrees with the idea that there are other seasons people may want to rent.

Kington said he heard about five things that make me think we could reconsider and make improvements to the ordinance such as the time frame of allowed rentals and it's not clear. In thinking through the village, Tom's answer was good, but perhaps we need to think about that. In terms of friends renting less than seven days. I think it could be made better. Merillat said the six weeks are clear in how it's defined.

Cole said we do not go out looking for violations. Every ordinance we have is complaint driven. However, Host Compliance will help with that now.

Hefferan and Merillat discussed process regarding tabling versus voting it up or down and the process around each.

**Motion** by Cole to table amendment is 01-2019 to the Milton Township Vacation Rental Ordinance #02 of 2012 as amended until the September 10, 2019 meeting to consider items that were brought up during the public hearing. Seconded by Murphy. Hefferan said the purpose of tabling and reconvening is for the subcommittee to go over the issues brought up tonight. If you make no changes, it would be brought off the table, and we would be back to deliberations and voting. We would not be starting all over with the public comments again. If we create a new draft 12, then on September 10<sup>th</sup>, we would need to deal the current version first. **Motion carried 6-1.**

The subcommittee will meet August 19 at 9:00am.

Hefferan thanked the audience members for being here.

## 2. Agenda for September meeting:

1. Vacation rental public hearing continuation.
2. Public Assembly Buildings subcommittee report.
3. Rezoning request subcommittee report.

Weinzapfel requested a subcommittee for John Peal. Kington, Merillat, and Kopkau will be on this subcommittee.

Meeting adjourned by order of the chair at 9:30pm.

Respectfully submitted,

Joseph Merillat