

Millington Township Regular Board Meeting July 17, 2023

Regular meeting called to order at 6:00pm at the Millington Township Hall by Supervisor R. Loomis. Also present S. Keinath, A. Green, L. Jaruzel and J. Sabgash

There were 39 guests in the audience...

The Pledge of Allegiance was recited.

Motion by Keinath, support by Loomis to accept the minutes from June 19, 2023 as presented.

Ayes: All Nays: None Motion carried

Treasurer's report was presented. Thank you

Motion by Jaruzel, support by Green that bills be paid as presented:

General-	\$	9,242.90
Fire-	\$	18,767.01
Police-	\$	35,584.13
Refuse-	\$	18,604.06
Murphy Lake Weed	\$	329.00
Capital PJTS	\$	2,486.15
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Total	\$	85,013.25

Ayes: Loomis, Sabgash, Green, Keinath and Jaruzel Nays: None Motion: carried.

Millington Township Fund Balances ending June 30, 2023

FUND	MIF SWEEP MONEY	MARKET SAVINGS
General	\$ 547,455.16	
Cemetery Trust Fund	2,101.71	
Fire	377,068.40	\$39,094.31
Police	304,479.90	
Refuse	(280.51)	
Murphy Lake Weed Control	23,777.61	
Capital Projects – Buildings	36,781.48	
Capital Projects - Machine & Equipment	13,463.07	
Trust & Agency	6,390.42	
Fire Damage Escrow Fund	25,084.00	
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	\$ 1,336,321.24	\$39,094.31

Public Comment: The following residents spoke about short term rentals/Airbnb's on Murphy Lake.

Nicholas Aquino – Township needs to enforce the existing ordinance, short term rentals make Murphy Lake residents uneasy

Karen Yeager-Stiver – See attached letter submitted by Karen

Jim Cobb – Not for short term rentals on Murphy Lake, Township needs to enforce the ordinance

Emory Close – Township needs to uphold the ordinance

Paul Dudley – Owns an Airbnb on Murphy Lake, they have rules and guidelines in place to uphold a standard with Airbnb & VRBO

Dan Davenport – Why hasn't the Board addressed anything in 27 months, Township needs to enforce the ordinance

Dick Keiter – 35 years ago the Board forced a business to move from Murphy Lake into town per the ordinance.

Diane Wood – Witnesses a person speeding up and down dirt road on Murphy Lake causing an unsafe environment for kids and elderly.

Paul Martin – The ordinance that is in place needs to be upheld by the Township.

Ed Maschke – Please see attached layout of the timeline when the discussion started on short term rentals on Murphy Lake.

Carol Fredrick – Does not support Airbnb/short term rentals on Murphy Lake.

Inabeth Male – Letter was given to be read aloud about the gravel pit continues to go against their special use permit. Roger Leach (zoning administrator) is investigating the complaint. See attached letter.

Motion by Loomis, support by Sabgash to allow the Summer Festival to use the Township parking lot August 10, 11 & 12:

Ayes: All Nays: None Motion carried

Motion by Loomis, support by Green to move forward with the sign project for the Township office.

Ayes: Jaruzel, Sabgash, Keinath, Green and Loomis Nays: None Motion carried

Steve Ley – Spoke about short term rentals on Murphy Lake. Requests the Township Board take immediate action and enforce the ordinance, adopt a resolution on short term rentals, and asked why there was no enforcement of the ordinance. Please see attached email that was provided by Steve.

A. Green left meeting at 7:32pm

Motion by Keinath, support by Sabgash to table the short term rentals until we can set up a special meeting as soon as possible with the Townships attorney. Special meeting will be posted on Township website and at the Township office.

Ayes: All Nays: None Motion carried

A. Green came back to meeting at 7:35pm

Motion by Green, support by Keinath to keep Milliman Rd (between Barnes Rd and Birch Run Rd) as a county road.

Ayes: All Nays: None Motion carried

Motion by Keinath, support by Green to have MMR put together paperwork for a millage proposal.

Ayes: All Nays: None Motion carried

Zoning Administrator's Report. Thank you.

Supervisor's Report. Thank you.

Motion by Green, support by Jaruzel to adjourn.

Meeting adjourned at 8:05PM.

Jackie Sabgash, Township Clerk.

UNAPPROVED XXXX

Approved _____

Public Comment to the Millington Township Board, Meeting of July 17, 2023
Submitted by Karen Yeager-Stiver, 2971 Orchard Lane

I can identify numerous reasons why short-term rentals do not belong on Murphy Lake.

First and foremost is this: Short-term rentals currently are not legal in the Murphy Lake Residential District. They are already prohibited by our Zoning Ordinance enacted by the people of this Township.

In April 2021, the Township attorney, Laura Genovich, stated

the Millington Township Zoning Ordinance limits property located in the LR Lake Residential zoning district to 'single-family dwellings.' This term is defined by the Ordinance to mean '[a] building used or designed exclusively as a residence of one family. Because this term does not allow for temporary or transient uses, we [the attorney] believe a short-term rental would not fall within in the definition of a single-family dwelling...the Township has a good-faith basis to enforce the Zoning Ordinance and demand that the resident cease using his LR (Lake Residential) property as a short-term rental.'

This statement is clear and definitive. It was made over two years ago. It did not reflect new legislation then; it pointed out the meaning of our ordinance already enacted. It indicated the voice of the people. Any short-term rentals operating then, since then, or today are illegal enterprises. "Short-term rentals are not permitted in residential districts."ⁱⁱ

It is incumbent, therefore, that this Board act on this immediately. In order that the Township be in compliance with the law, in order that this Board be in compliance with our own ordinances, must stop all short-term rentals at once.

The attorney says "demand."ⁱⁱⁱ The attorney's term is "cease."

That is, to "Stop, discontinue."^{iv} It doesn't mean wait.

I am gravely concerned about why this very action was not taken at the time the legal advice was given. At last week's Planning Commission meeting (July 10), members reported that this Board told them not to act. It appears to me that this delay constitutes purposefully ignoring illegal activity. Does that make the Boards party to that illegal activity?

A Planning Commission member said the reason given not to act was that the State was working on related legislation that could have impacted our zoning.^v Even then, unless and until any outside restrictions might have taken effect, our ordinance was still in effect. To delay enforcing our ordinance was irresponsible, if not negligent.

Similarly, regardless of how a Board member, Commissioner, other official, or homeowner feels about short-term rentals or whether one might advocate for or against them in the future, STRs on Murphy Lake are prohibited. To violate that is to break the law.

Permitting any STRs on Murphy Lake would require a legal change. Appropriate language would need to be drafted, public hearings held, and a vote taken by the appropriate body.

If such a change is proposed, I would speak emphatically against it. Short-term rentals negatively impact the character of a residential area, as many here will attest. Transient renters on Orchard Lane have impaired my sense of security, privacy, and quality of life. I could give examples.

Thankfully, STRs are already prohibited.

Can we expect this Board to operate in the public trust? Can we rely on this Board to heed the advice of its own legal counsel? Can we count on this Board to uphold our own ordinances?

ⁱ Email to township supervisor, April 28, 2021.

ⁱⁱ "We would take the same opinion now...Short-term rentals are not permitted in residential districts." Laura Genovich, email to Township Supervisor, June 2023.

ⁱⁱⁱ That is, to require, to act "peremptorily"- "in a way that leaves no opportunity for denial or refusal." Dictionary.com

^{iv} Ibid., "cease."

^v A Zoning Committee member read MI House Bill 4722. This bill would have required townships to allow, with certain stipulations, some short-term rentals. The bill did not pass the House. It was, in fact, opposed by Michigan Township Association, MI Municipal League, many individual municipalities, attorneys, and MI residents.

July 17, 2023 Millington Township Board Meeting – Short Term Rental – Ed Maschke

Background / History:

- 1) June 7, 2021 – Planning Commission members tabled their decision until the July 12, 2021 meeting to allow for more detailed investigation and clarity with the Townships Attorney regarding the issue of short term rentals.
- 2) July 12, 2021 - After discussion from the audience members, a motion was made by Maschke, seconded by Jaruzel to table the Planning Commission members decision until the Michigan House and Senate vote on House Bill 4722 and Senate Bill 446. Or, if the Millington Township Board directs the Township Planning Commission to address the issue. Motion Approved.
- 3) July 11, 2022 – Planning Commission developed a Short Term Rental proposal.
- 4) July 18, 2022 – Jaruzel presented to the Township Board the Planning Commission draft for short term rental ordinance.
- 5) September 19, 2022 – Township Board voted to table short term rental ordinance until next month's meeting.
- 6) October 17, 2022 – Township Board voted to not set up any ordinances for short term rentals as there is no need at this time.
- 7) December 19, 2022 – The Planning Commission tried again to get the Township approval to address the short term rental issues (Currently no ordinances to address them). Township Board voted to stand behind previous decision made on October 17, 2022 regarding short term rental ordinance.
- 8) May 27, 2023 – During annual Murphy Lake Association meeting, Steve Ley questioned how the group of members feel about Air BnB's coming to our lake. President Maschke suggested to take the matter to the Millington Township Board.
- 9) June 26, 2023 – Steve Ley met with the Millington Township Supervisor – Supervisor directs Steve Ley to attend the next Planning Commission meeting.
- 10) July 10, 2022 - After discussion, Zavitz referred the LR / Lake Residential guests to the Millington Township Board Meeting on Monday, July 17, 2023 at 6:00 P.M.

Status:

- 1) Status of House Bill 4722 and Senate Bill 446 per Michigan Senator Kevin Daley, House Bill 4722 has only passed in the House, not the Senate. Considering that this has been in process for over 2 years now, timing to pass the Senate is unknown.
- 2) The Murphy Lake Association is setup as a voluntary membership. So, it has no authority implement or enforce any regulations.
- 3) The Planning Commission can't amend the existing Zoning Ordinances to address the Short Term Rental concern per direction from the Township Board.
- 4) The Township's legal opinion is that short-term rentals are not permitted in residential districts. They also offered to help the Township develop Zoning Ordinance amendments to specifically address and regulate this land use and decide what district would be appropriate.
- 5) One to two short term rentals have been functioning for over two years without any reported or documented issues with the actual renters.
- 6) To ensure there is no future issues with short term rentals, the Zoning Ordinance needs to be amended to clearly define that short term rental are not allowed or create amendments to specifically address and regulate how they are implemented.

My recommendation as a Planning Commission member and a LR / Lake Resident, is for the Township Board to approve the Planning Commission to amend the Zoning ordinance to address this concern.

From: Genovich, Laura <LGENOVICH@FOSTERSWIFT.COM>
Sent: Tuesday, June 27, 2023 1:03 PM
To: Supervisor <supervisor@millingtontownship.com>
Subject: FW: Short-Term Rentals [FSCS-LEG.FID1136252]

Hi Robert – I tracked down our opinion on this from a couple of years ago (below). Given that the Zoning Ordinance hasn't changed, we would take the same position now – short-term rentals are not permitted in residential districts. We could help the township develop Zoning Ordinance amendments to specifically address and regulate this land use and decide what district would be appropriate. Please let me know if you would like us to do that. Thanks.

Laura J. Genovich
Shareholder
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Fax: 616.726.6813
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www.fosterswift.com
Firm Profile & Biography

From: Genovich, Laura
Sent: Wednesday, April 28, 2021 4:22 PM
To: Robert Loomis (supervisor@millingtontownship.com) <supervisor@millingtontownship.com>
Subject: Short-Term Rentals

Robert –

It was nice speaking with you this morning. I reviewed the Supreme Court case that I mentioned when we spoke. Based on that case, the short-term rentals in the LR district likely do violate the Township Zoning Ordinance.

The case on point is Reaume v Twp of Spring Lake, 328 Mich App 321, 324; 937 NW2d 734, 736 (2019), aff'd in part, vacated in part 505 Mich 1108; 943 NW2d 394 (2020). In that case, the Court of Appeals and Supreme Court held that property zoned or "R-1 Low Density Residential" could not be used as a short-term rental property under Spring Lake Township's zoning ordinance. The resident argued that use of property for short-term rentals qualified as use as a "single-family dwelling" under the zoning ordinance. The Court of Appeals held that "single-family dwelling" did not include transient uses, so the resident could not use the property as a short-term rental. The Supreme Court upheld that decision, but for a different reason. The Supreme Court found that the property constituted a "motel" under the zoning ordinance, which was not permitted in that zoning district.

Here, the Millington Township Zoning Ordinance limits property located in the LR Lake Residential zoning district to "single-family dwellings". This term is defined by the Ordinance to mean "[a] building used or designed exclusively as a residence for one (1) family." Because the definition does not allow for any temporary or transient uses, we believe a short-term rental would not fall within the definition of single-family dwelling. The zoning ordinance also separately regulates motels (although motels are not defined in the zoning ordinance), and the short-term rental would arguably constitute a motel.

Based on the above, we believe the Township has a good-faith basis to enforce the Zoning Ordinance and demand that the resident cease using his LR property as a short-term rental.

Please let me know if you have any questions. Thanks.

Laura J. Genovich
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June 29, 2023

To: Millington Township Board

Dear Board Members:

I am writing to lodge a formal complaint regarding MI gravel special use permit. The grievance is regarding the acreage in the permit versus how many acres are being mined. Minimally, this issue was mentioned at board meetings 8/12/2019, and again 6/2023.

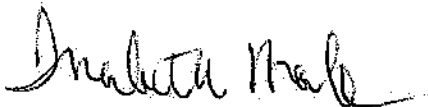
There are multiple concerns as stated in multiple meetings. However, the primary concern is how the pit continues business under the original permit. At the inception of the first permit 2003 I recall there were 80 acres.

When the township took MI gravel to court in 2019 the map showed 249 acres. How did this occur on the same permit? I've heard of at least three additional land purchases since the original permit. The latest being an additional 75 acres from the VanWagner farm on oak road.

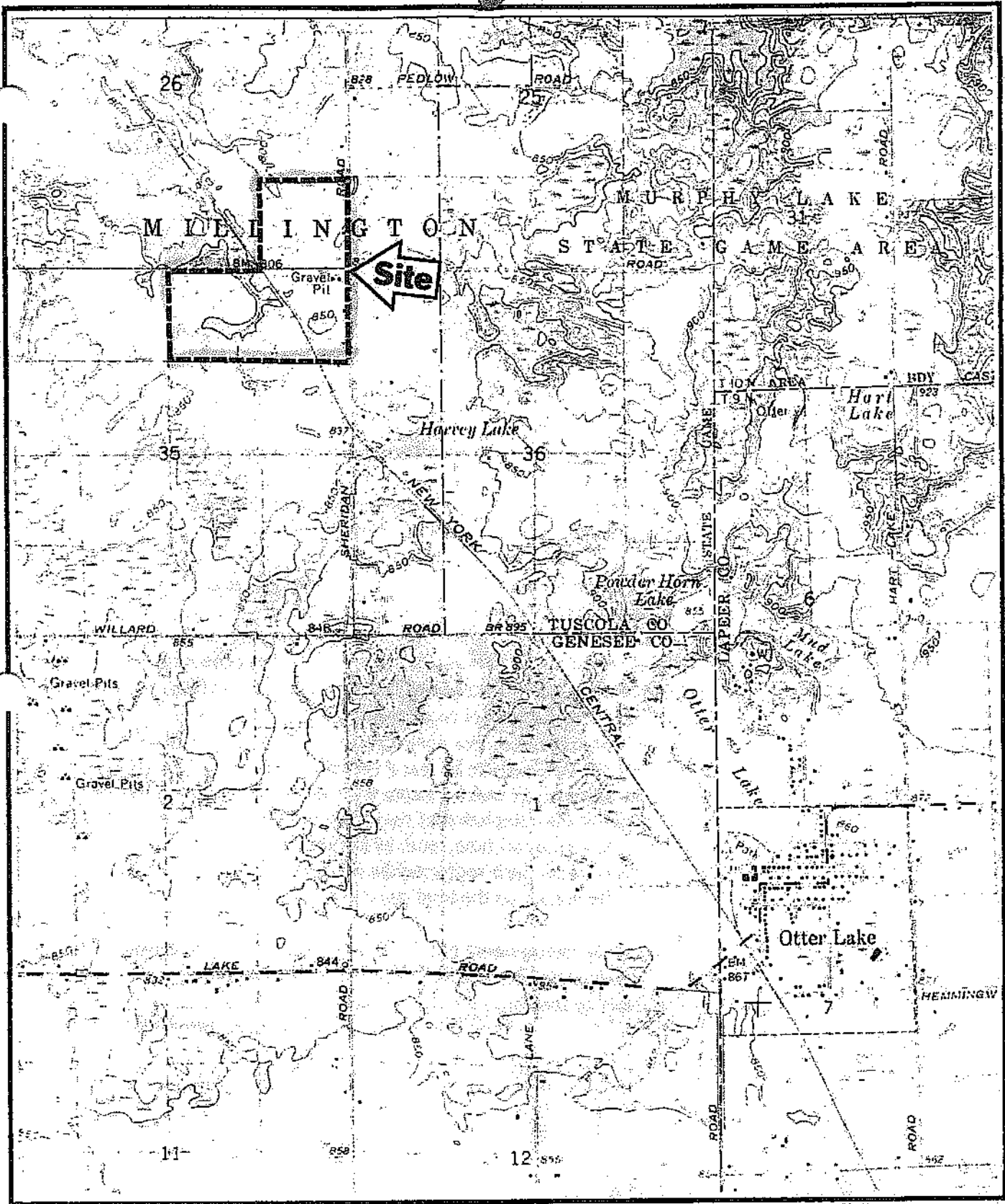
Attached you will find land maps provided at previous meetings. The growth of the pit will be obvious. That will be without the recent land purchase on Oak Rd.

Sincerely,

Inabeth Male

A handwritten signature in black ink that reads "Inabeth Male". The signature is written in a cursive style with a horizontal line extending to the right.

Cc Planning Commission



AE Applied EcoSystems - Great Lakes, Inc.
 Environmental Management, Consulting & Field Services
 An Affiliate of Keystone Environmental, Inc.

SITE LOCATION MAP
 10000 Sheridan Road
 Millington Township, Michigan

DATE:	SCALE: 1"=2,000'
PROJECT: 99-0501	FIGURE: 1

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

