

Clearwater Township

Planning Commission

Special Meeting of February 13, 2023

As approved March 6, 2023

Call to Order, Pledge of Allegiance:

Chair Von See called the meeting to order at 7:00 p.m., and opened with the Pledge of Allegiance.

Roll Call of Members and Recognition of Visitors:

Commissioners present: Cassasa, Fields, Keyes, Leffew, Von See.

Township officials: Supervisor Backers (online)

Public: Not everyone present was willing to sign in. Those assembled numbered about twenty. There were approximately twelve people online as well.

Approval of Agenda:

MOTION by Leffew, second by Keyes, to accept the agenda as presented. Motion carried.

Call for Disclosure of Conflicts of Interests:

All members of the Commission declared no conflicts of interests.

Approval of Minutes:

There are no minutes to be approved. The only business to be carried on at this meeting is the discussion of the proposed Short Term Rental police power ordinance.

Public Comment for Matters Not on the Agenda:

There was none.

Commissioner Comment for Matters Not on the Agenda:

There was none.

Correspondence on Matters Not on the Agenda:

There was none.

Old Business:

Discussion on the proposed Short Term Rental police power ordinance. (Not everyone who spoke gave a name. Those entries all are marked "A member of the public.")

Attorney Matthew Wikander – Gave opening comments on the work leading up to this clean copy of the proposed ordinance. Months of debate and compromise went into it. He reminded all of us that litigation is not in the best interests of anybody, which is why so much effort is being expended to create a law that we can all live with. Having a good ordinance brings

practical regulation to the subject of using properties for short term rental. Keeping standards in place is of benefit to the community because the very thing that makes us attractive can be destroyed by improper use. Yes, those who wish to run the business of short term rentals will have to jump through a lot of hoops, such as regular septic inspections that other property owners do not have to do. There are serious considerations in passing a police power ordinance and we must take care that it will be able to withstand constitutional challenges.

Commissioner Leffew – Noted the strong similarity between the wording of this proposed ordinance and the one established for Green Lake Township, where Marv Radtke is the Supervisor. In discussion, it was acknowledged that the first draft probably was based on the Green Lake Township ordinance, and that during negotiations additions and deletions were made to it, resulting in the proposed document we are now reviewing.

Sue Kelly – Posed a procedural question: would there be a three-minute time limit imposed on speakers so that everybody would have a chance to speak? Chair Von See responded that there would be. Commissioner Casassa agreed to be the timekeeper.

Chair Von See – Asked Attorney Wikander to describe the negotiation process. The twelve property owners he represents offered their modification suggestions; if Zoning Administrator Radtke accepted them they are in this document. So, both sides of the negotiations accept what is in this proposed ordinance.

Supervisor Backers – Interjected that whatever comes to the Township Board will be submitted to the township's legal counsel for review before the Board considers it.

Sue Kelly – Is a permanent resident of Torch Bridge Court, who has submitted a letter with specific concerns about the current version of the proposed short term rental ordinance; and would like to emphasize a few points. Living near many of the short term rentals, she is privy to cars parked on the roadway or over the septic field, beer cans in the yard, and loud music. Like many others, she does not call the sheriff because there are more serious concerns for the sheriff to address than her desire for quiet enjoyment of her property. She raises the concern that limitations on the number of permitted short term rentals and on true capacity seem to have been removed in this version of the proposed ordinance. She also commented that there should be no permitted sleeping outside the dwelling. Finally, she pointed out that some townships do not permit short term rentals in R-1 residential districts.

Stuart McKinnon – Asked if the commissioners could share their thoughts and concerns to help clear up some questions for the members of the public.

Commissioner Leffew – Spoke on some definitions that seem unclear or self-contradictory, such as the caretaker being an individual other than the license holder, which seems to imply that the license holder cannot be the caretaker; that the license appears to be described as both an annual license and as a three-year license; that this ordinance has no definition of a dwelling; that there appears to be no severability clause; and that short term rentals have requirements that will not be imposed on other residents. Attorney Wikander responded that the license holder can be the caretaker, that the license is a three-year license with an annual fee, that if the police power ordinance meets the constitutional requirements the Board can amend it

whenever necessary, and that commercial activities can have requirements imposed on them that do not apply to other residents. He concurred that the language could be clarified.

A member of the public – Interrupted with the challenge that if short term rentals are to be classified as commercial, doesn't that open up the neighborhood to other commercial activities such as opening a store front. There was some discussion about commercial activity being not allowed in the R-1 district. Commissioner Fields explained that some commercial activity is permitted in the R-1 district, but that it is limited and must not appear to be commercial. Home occupations, for example, are permitted but must look residential.

Attorney Wikander – Stated that at present, there is nothing in the Zoning Ordinance permitting short term rentals. If the Board adopts this police power ordinance, the Planning Commission will likely be called upon to add that classification to the Zoning Ordinance.

Commissioner Leffew – Asked why this proposed ordinance includes rules about quiet hours and other things that are already in other township ordinances? Attorney Wikander responded that it is wise to include them even though they exist elsewhere to make sure they get observed. Leffew thought the fines were high. Wikander said the owners had agreed to them. as a show of good faith

Dale Gaylord – Commented that her rental is in the middle of 140 acres with much lower rent than the Torch Lake properties charge, and for her the fines would be extreme.

Commissioner Casassa – Noted the need for consistent language assigning responsibility to both the license holder and the caretaker; she raised concerns about septic system reporting and time allowed for correcting malfunctions; parking space locations; unlimited number of children permitted in a rental dwelling; and the "after-the-fact" fee, amounting to, as she put it "if you get caught, you pay up." Wikander indicated that in the matters of occupancy limits and septic systems, all state and federal laws would prevail and that fact is indicated in the ordinance. Casassa also noted that there should be someone available 24/7 to handle emergencies. More clarity is required in the language concerning violations. Further, she found no discussion of limiting the number of rentals in an R-1 Residential neighborhood, leaving the permanent residents in the position of feeling that they are living next to hotels.

Scott Thompson – Told of his great-grandfather trading the land he owned, where the campground is now, for a lot on Torch Lake in 1906. He recalls his aunts Sadie and Edith talking about how important it is to keep the property in the family. He and his four sisters hold that view and have imparted it to their children. At this time, he resides there and is homesteaded. While they hope to keep it within the family in perpetuity, it is clear that someday the choice will have to be made to rent it out for a few weeks a year in order to pay the taxes on it and continue to own it. His request of the township is to avoid making the rules punitive so that families like his would be unable to keep their property. Casassa responded that she is sympathetic to people like him who are striving to afford their property rather than run a huge commercial business. She commented that Milton Township permits a certain number of weeks per year, that there are different situations and perhaps there should not be a "one size fits all" approach.

A member of the public – Echoed the comments made by Scott Thompson and expressed his fear that if licenses are limited, a property owner who discovers the need to do a little renting will be shut out of that opportunity because all the permitted licenses have been issued. He pleaded that the township not take away property rights to periodically rent a home.

Attorney Wikander – Said a property owner has to be very serious about the business of renting because this ordinance has a lot of hoops to jump through. He opined that it makes sense to try this police power ordinance and see if it works to remedy the problems that led to the effort. in the first place This provides a tool for regulation and for enforcement. And it can be tweaked as needed.

Tom Pierce – Said he lives on Shell-Way Drive, where there are thirty-three houses, seven of which are now short term rentals, and three more that may become such with generational changes. He said he doesn't stay here over the Fourth of July holiday because there is no point. Without limits, we simply become a commercial district.

A member of the public – Asked whether someone could just buy up all the licenses and thus shut out competition. Wikander responded that each license would be for a specific property.

Stuart McKinnon – Commented that if there is to be a numerical limit to licenses, a lakeshore owner opposed to short term rentals might get a group of like-minded property owners to buy up all the licenses and prevent anyone from operating a short term rental. He then asked about property owners who have family members rotating through during the summer – are they to be considered short term rentals?

A member of the public – Said he works around the lakes and sees property owners with family members overtaxing their septic systems, so why just go after the short term rental operators?

Dale Gaylord – Noted that during her thirty-two years as a mail carrier, she frequently visited with people who were overwhelmed with their family as company during the summer. She also said that on her 140 acres she has a microphone and camera in place to assist her with monitoring the actions of her tenants.

Trustee Keyes – Said there are places in the ordinance that refer to a “timely manner.” He believes this should be more clearly defined.

Ryan Williams – Expressed frustration that the Zoning Administrator is not present to help with understanding of this ordinance that he was part of constructing. Leffew explained that we scheduled this meeting without verifying that Zoning Administrator Radtke would be available, and he also has responsibilities as the Supervisor of Green Lake Township. Williams indicated that the township is paying a lot of money for a Zoning Administrator, who, he says, has not been available.

Mary Beth Kasinsky – Is also sad about losing the quiet neighborhood to a lot of rentals. She cautioned against adopting a document that is inadequate in terms of clarity and definitions, and hoping to change it after it has been enacted. Without limits there is no way to keep the sense of community and neighborhood.

A member of the public – Stated that historically this community was a cottage and tourism community with people coming up on the train and staying for a while in a cottage; that it's

only in recent years that people actually began living here. People subsidize their ability to hold onto their property by renting. He said that his taxes are so high that he would not be able to keep his property if he did not rent. He believes that putting restrictions on that ability goes against the way the community began. Casassa attempted to ask how he saw balancing that with protecting against being overwhelmed with commercial rental businesses. There was no resolution to that question.

A member of the public – Asked what the next step is. Keyes responded that our recommendations will go to the Township Board.

Commissioner Leffew – In response to Stuart McKinnon's question about how this regulation would affect homeowners and their families, 11e says it "shall not apply to use of a property by its owners and their guests."

Dan Packer – Is a resident of Torch Bridge Court, in the middle of the concentration of short term rentals. This document was negotiated between our Zoning Administrator and the representative of short term rental owners. The original proposal stated that its purpose was to preserve and maintain the residential nature of neighborhoods such that short term rentals would not change their character. He opined that having many short term rentals in a neighborhood drastically changes its character. Without a hard cap on the number of people that can occupy a home, we would essentially have unlimited short term rentals. Some nearby townships do have hard caps: Elmwood 10, Milton 10, Acme 10 and Acme does not permit them in R-1.

Dale Gaylord – Has spoken recently with the Supervisor of Whitewater Township that has no short term rental ordinance – he said it was unenforceable.

Chair Von See – Commented that he sympathizes with lakeshore property owners regarding taxes – that is why he does not live there. There is a need for a sense of community, not just standing on individual rights. He said there is too much "me" and not enough "we."

Christian Stoldt – Said he thinks this document is useful, it addresses the issues that have been raised. Personally, he doesn't think short term rentals necessarily change the character of a neighborhood. Most people who came up here for a first visit, rented; they found it beautiful and that's why they live here now. It is hard to find a middle point for everybody, but this document seems to be balanced.

A member of the public – Stated that most of the homes on the lake are summer homes. How does one come here and visit without renting? For a long time this was known as a resort area.

Stuart McKinnon – Asked whether the definition found in the Zoning Ordinance for a country lodge, as a short term rental, would have to be changed to match the one in the proposed police power ordinance. Attorney Wikander said that he had researched that very issue and found that a country lodge is distinctly different from the short term rentals of this ordinance.

MOTION by Fields, second by Keyes, to forward the proposed ordinance to the Township Board accompanied by a document detailing the comments offered at this special meeting. Motion carried.

Roll Call

Casassa - yes
Keyes - yes
Leffew - yes
Von See - yes
Fields - yes

Closing Public Comment:

There was none.

Before the meeting ended Commissioner Leffew inquired why we haven't been informed about the new land use permit application for Northern Embers. Chair Von See concurred that we have not been included in the review of this new application and that it is being handled by the Zoning Administrator. Concerns should be taken to the Township Board.

Adjournment:

MOTION by Casassa, second by Fields, to adjourn. Adjournment at 8:44 p.m.

Assignments:

- Fields to compile the comments of this meeting into a document to accompany the proposed Short Term Rental police power ordinance and forward them together to the Township Board.

Next Meeting: March 6, 2023

Respectfully submitted,



Tina Norris Fields
Secretary