

**VILLAGE OF LAKE BLUFF
COMMITTEE-OF-THE-WHOLE
REGULAR MEETING
MARCH 12, 2018**

APPROVED MINUTES OF MEETING

The Village of Lake Bluff Board of Trustees met as a Committee-of-the-Whole (“COW”) in the Village Hall Board Room (40 East Center Avenue) on Monday, March 12, 2018. Village President O’Hara called the meeting to order at 6:00 p.m. Village Clerk Joy Markee called the roll.

The following were present:

Village President: Kathleen O’Hara

Trustees: Barbara Ankenman
Mark Dewart
Eric Grenier
Paul Lemieux
William Meyer
Aaron Towle

Also Present: Joy Markee, Village Clerk
Drew Irvin, Village Administrator
Peter Friedman, Village Attorney
Glen Cole, Assistant to the Village Administrator

Non-Agenda Items and Visitors

President O’Hara stated the COW allocates 15 minutes for those individuals who would like the opportunity to address the COW on any matter not listed on the agenda. There were no requests to address the COW.

Consideration of the Minutes from the February 26, 2018 Committee-of-the-Whole Meeting

Trustee Meyer moved to approve the February 26, 2018 COW minutes as presented. Trustee Lemieux seconded the motion. The motion passed on a unanimous voice vote.

Continued Discussion Regarding Short-Term Rental Regulations

Village Administrator Irvin introduced the item. He stated that recent public comments are available at the dais. Returning to the item, he stated that he and Village Attorney Friedman made adjustments per the Board’s feedback at the February 26 COW meeting. Additionally, the Village’s Building Codes Supervisor (Michael Croak) and Fire Chief (David Graf) also provided amendments concerning the life safety section that was newly added in the most recent revision. He provided an overview of the various changes stemming from both the February 26 meeting and staff review.

Trustee Lemieux asked Village Administrator Irvin for further explanation of the alterations to the life safety section. Village Administrator Irvin provided examples, including eliminating language related to metal trash cans (outdated), all stair systems requiring hand rails (not all do under the building code), and plans being provided to the Fire Department (rather than just to “the Village”, which is typical in the Village Code). The COW also discussed the requirement for a central monitoring station for a fire alarm.

Building Codes Supervisor Croak came forward and explained the definition of a central station for alarm purposes as well as Lake Bluff's requirements for residential sprinklers. Trustee Towle noted that do-it-yourself services are now available that would appear to meet this requirement at a lower cost.

Village Administrator Irvin concluded his summary of the various recommended changes. Trustee Grenier indicated he would accept all of those recommendations.

Village Administrator Irvin asked Village Attorney Friedman to provide an explanation regarding conflicts of interest that may be applicable to the COW's discussion. Village Attorney Friedman did so, explaining the nature of statutory and common law conflicts of interest. He stated that he has reviewed the correspondence received to date on this subject, and none describe a valid statutory or common law conflict of interest. He stated that personal relationships and friendships do not constitute conflicts of interest, and that it would be untenable for a small town to exclude Trustees from service where there are pre-existing personal or business relationships.

Trustee Grenier stated that the concerns raised by the written public comment appear to be directed to the two Trustees who serve with Catherine McKechney on the board of the Lake Bluff History Museum. He stated that his spouse also serves on the same board. Village Administrator Friedman said that, while a Trustee can decide not to vote, this situation does not begin to meet the definition of a valid conflict of interest.

Trustee Lemieux stated that this is a re-emerging issue from the Board's Block Three deliberations that was addressed during the strategic planning process; namely, civility. He read a quote from the public comment – "Voting for short-term rentals furthers the belief that the Village serves a few individuals and not the majority of taxpayers." He stated that the quote's author accuses the Trustees of malfeasance for not obeying the dictates of a minority of residents, which he finds quite disturbing. He noted that similar accusations have been made by opposing advocates as well. He stated that these accusations are not fair, constructive, or civil, and that it is entirely possible for well-meaning people to reach different conclusions from the same set of facts. He is also troubled because the Village is constantly run by volunteers; these volunteers, without compensation, run Boards, special events, and read the roughly 295 pages of material presented to the Board for action today. He believes that, overtime, these accusations will continue to thin the ranks of people who will volunteer to serve, until the Village government is composed of people who are thick skinned to these accusations and insensitive to public opinion as a result. He reiterated that the Village must maintain the ability to look at the same set of facts and reach different conclusions with civility.

Village President O'Hara asked the Board for other comments regarding the ordinance. Trustee Lemieux discussed the need for a log to be kept and periodically presented to the Village for review. Trustee Towle asked if the review perhaps should be at the request of the Village, but not on a regular basis.

Trustee Lemieux, continuing, said he had changed his viewpoint on the collection of the Village's home rule hotel tax for short-term rentals. He originally believed that it was onerous and not worth the investment for the Village to collect at such a small volume. However, now that the short-term rental regulations are structured as a pilot with a sunset date, he wants to try remitting the tax so as to learn if it is indeed onerous for operators. Trustee Grenier thanked Trustee Lemieux for his contributions. He still believes that the costs of collecting the hotel tax will not justify revenues, but he would entertaining doing so as a test rather than a revenue raiser. He stated that he would scale back the annual registration fee – raised from \$350 at the last meeting to \$450 at this meeting – in response to adding the tax. Trustee

Lemieux said that he would prefer to see \$350 or \$250 as the registration fee. Trustee Meyer asked, were the pilot program to become permanent, if the larger amount be a permanent feature of the ordinance. Trustee Grenier stated that he would set a permanent fee in the range of \$100 to \$200. He said that, in their research, it was common for municipalities to levy a \$100 fee and 8% tax. Responding to a question from Trustee Towle, Village Administrator Irvin said that the Village would retain the ability to adjust the fee in the future. Trustee Grenier said that he would like to see tax collection tested. Trustee Towle said that it is much easier to try it now than to revisit it in two years, but that a short-term rental license has a cost to the Village even if not rented. Trustee Grenier said that the goal of the fees at this point should be to be revenue neutral and not a profit center for the Village. Village Administrator Irvin, responding to a question, compared this fee to other permit types and noted that the two Trustees studying this issue originally proposes a fee of \$150 and was raised, in part, to bear the cost of a third-party service to monitor compliance. Trustees Grenier and Dewart discussed the fee level.

Trustee Dewart began his comments. He disclosed that he is one of the members of the History Museum board alongside Catherine McKechney, and that any number of community members on both sides of the issue are connected to each other by way of formal and informal organizations. He stated that he had reread the Bed and Breakfast Act, and that it requires smoke detectors and fire extinguishers in the kitchen area. Building Codes Supervisor Croak stated that smoke detectors false alarm often in kitchens; that heat detectors are often suggested as an alternative for commercial; but that heat detectors may not be feasible or cost-effective in a residential installation. Trustee Dewart discussed the insurance requirements of the ordinance. He believes that the ordinance should take a functional approach in setting the insurance requirement, rather than specifying a commercial general liability policy. Responding to a question from Trustee Towle, Village Attorney Friedman stated that regular homeowner's insurance generally does not cover short-term renting. Some companies, including Allstate, Liberty, and Farmers now offer a specific rider to extend coverage to this activity that is more affordable. An operator could also obtain a commercial liability policy in addition to their homeowner's insurance, which is more common to bed and breakfasts and is more expensive. Trustee Meyer said that the ordinance language should be adjusted. Trustee Grenier said that this is an ordinary requirement. Trustee Ankenman said the ordinance should be clear that the blanket coverage provided by short-term rental intermediaries (e.g. Airbnb, VRBO) would not satisfy the requirement.

Village President O'Hara asked if there was further discussion. Trustee Lemieux asked if the consensus exists to proceed with action on the ordinance. Trustee Towle stated that, while he understands it to be a non-starter, he still believes short-term renting is a change of use that should mandate the installation of sprinklers. While the cost may be onerous for some operators, he believes it can be beneficial for the Village to set a standard for subsequent municipalities investigating this issue. Trustee Meyer stated that, while many risks are uncommon, fire is common. People unfamiliar with the interior layout of a building who are awoken by fire may not be able to escape. While he understands this item may be a non-starter, he concurs with Trustee Towle's remarks. Trustee Towle suggested that the Joint Plan Commission and Zoning Board of Appeals ("PCZBA") could review and opine as to this subject.

Village President O'Hara asked if it was, at this time, the consensus of the Board to recommend either an ordinance allowing and regulating short-term rentals or an ordinance prohibiting short-term rentals to the PCZBA for action. After some discussion, Village President O'Hara stated that the Board was split. Trustees Towle, Meyer, and Ankenman would send the prohibition ordinance. Trustees Lemieux, Grenier, and Dewart would send the regulation ordinance.

Trustee Towle stated that the Board was elected to make decisions, but given the circumstances, he

asked that the Board discuss a referendum. Village President O'Hara said that it was the Trustees prerogative to discuss an advisory referendum. She emphasized, however, that it was an advisory referendum and that the Board must ultimately make a decision.

- Trustee Lemieux stated that he had discussed this with Trustee Grenier. He stated that calling a referendum is not the sole purview of the Board, and that anyone can complete a petition to bring forward a referendum. The Board previously called a referendum on the question of home rule. In response to a question from Trustee Lemieux, Village Attorney Friedman stated that the deadline for a referendum to be on the 2018 general election ballot would be on or about the second weekend of August. Trustee Lemieux said that this issue would continue to percolate until it is resolved. He stated that he would rather resolve this issue, knowing the board can make changes later, and that he is less inclined to support a referendum now that it is a two-year pilot program. He would see the Board and the Village move past this issue, and he would refer it to the PCZBA for consideration and action.
- Trustee Ankenman stated that a referendum sounds like a good thing to do. She has considered it as a number of people have brought it up. She stated that a lack of civility and the painful nature of this process makes her inclined to act sooner rather than later. Everyone who has picked a side thinks their side is in the majority. If there is 100% turnout, then the Board will truly know the Village's desire; but she believes it is entirely possible to get a 54% / 46% referendum with low turnout that will not be decisive. She believes it would be painful in the short-term, and perhaps in the long-term given the countless hours, meetings, phone calls, and e-mails spent on this topic. At the same time, those same indicators suggest that this is an issue that may merit referendum. She concluded by saying that, while she understands Trustee Lemieux's argument to move forward, she wants to know what others think and invited comment from the other Trustees.
- Trustee Dewart concurred with Trustee Lemieux. He believes it is time to move forward. He concurred with Trustee Ankenman that the process isn't perfect and that a referendum won't be effective in resolving this issue.
- Trustee Grenier stated that he would not go to referendum. He stated that the Trustees have an obligation to look at the law and their obligations to the citizenry. He stated that it is very easy to get emotional and then to neglect facts. He believes a referendum would muddy the waters but that a 48% / 52% or 45% / 55% turnout would not help resolve the issue. He stated that there is an argument about whether this would hurt the character of Lake Bluff, yet this activity occurred for two years and didn't – to their knowledge – demonstrably affect Lake Bluff's character. This decision affects property rights first and foremost and, ordinarily, people have the right to rent their property out. He stated that the Board has to make a decision regarding those rights on as factual basis as it can and not abridge them without just cause. Given the two to three year history of short-term rentals operating in the Village, he does not believe there is a serious risk in trying a pilot program and seeing how the community will react when short-term rentals occur in the daylight instead of in the shadows. A referendum will tend towards an emotional debate based on how we frame it, and this conversation started with the extreme proposition that transients are staring into your windows – something no one is saying anymore. In response, to Trustee Grenier, Trustee Ankenman said that property rights would be unaffected for the majority renting to guests for 30 days or more.
- Trustee Meyer said he would not favor a referendum ordinarily, as the Board has the duty to make decisions. He said that this might be the exception and that he may favor it. He said that

everyone sitting at the Board was elected by the same voter turnout that would decide a referendum. People who want to express their opinion will come forward and vote, and he believes people will do so on this occasion. He wants to know if they are responding to just the squeaky wheels in the community. He believes the ordinance can be worded in a way that is fair, neutral, and effective.

Village President O'Hara stated that the Board was, again, split in the same manner as for the ordinance to recommend. She stated that anyone can petition for a referendum, and that there is a low bar to doing so. She would not recommend the Board advocate for a referendum. The decision returns to the Board anyway, and prolongs an issue that makes people pick sides and enemies – a new phenomenon in the Village.

Returning to the subject of selecting an ordinance to refer, she stated that she would rather not weigh in on the votes of the Trustees. She prefers to be the Board's facilitator, which she thinks is much more effective. She believes the Board skirts its duty if it does not make a decision, and that the decision may be very temporary. She cited that the regulation ordinance is for only a two year trial period with numerous restrictions, and that most of the five prior short-term rental operators would not satisfy these restrictions. Trustee Ankenman stated that, if the threshold for a referendum is not very high, she is unsure how the threshold is not satisfied if three board members ask for a referendum. Village President O'Hara responded that the Board's decision does not preclude the rights of the public to ask for a referendum, but that the Board must still make a decision. She asserted that referendums can become ugly and tear communities apart. She said that this is contrary to the Lake Bluff she's known for fifty years, and that black-and-white decision making was never part of the community before. She would not prolong the issue.

Village President O'Hara concluded by stating that she would oppose calling a referendum and would send the ordinance regulating short-term rentals to the PCZBA for public hearing at a special meeting scheduled next Monday. She asked for the Board's comments.

Trustee Lemieux stated that the PCZBA can do what they desire during the hearing. He stated that, knowing this was a difficult process for the PCZBA last time, he hopes they would not feel the need to "reinvent the wheel." He wanted to hear from the PCZBA regarding lot size restrictions and the number of permissible nights. Trustee Towle re-iterated that he wanted to hear the PCZBA opine on sprinkler requirements.

At 7 p.m., Village President O'Hara invited forward comment from the public.

Peter Capps, resident, came forward to address the Board. He stated that he is shocked at the outcome of the meeting and that there is no benefit to the Village from short-term rentals. He stated that it only benefits five people putting money in their pocket. Trustee Grenier stated that he disagreed, and listed classes of people who can benefit. Mr. Capps responded that the majority do not support this viewpoint, and based on their notes from every meeting, there are three people in opposition for each person in support. There is no fact based support for this proposal. He believes that the Board's refusal of a referendum is outrageous, and accused the Board of ripping the community apart. Peter Capps concluded his remarks and exited the Board Room. Trustee Grenier stated that some of the communities who decided to ban short-term rentals proactively did so to avoid the calamity and commotion of this issue.

Heather Klepitsch, resident, came forward to address the Board. She stated that she is unsure why the

Board is not allowing the PCZBA to consider both options. Village Attorney Friedman responded that the PCZBA will receive the Board’s recommendation to allow it, and it can return the recommendation it desires, including a recommendation to ban it outright.

Catherine McKechney, resident, came forward to address the Board. She stated that she is one of the prior short-term rental operators. She hosted people in her home for three years who visited Lake Bluff and patronized its stores and Farmers Market. She does not know where the word “transient” entered the conversation, but she vetted her guests very carefully and believes it is a great addition to the community. She has been contacted by more than ten groups who wanted to use her short-term rental since the moratorium came into effect. Even if she does not operate a short-term rental again, she is unsure of how to handle these groups, as there is a need in the community. She expressed her remorse for how out of hand this conversation has grown, and said that this is the last thing she wants to see happen in Lake Bluff.

Robert Havrin, resident, came forward to address the Board. He believes the Board has already decided to prevent them from being short-term rental operators. He stated that his goal was always to invite people in, let them be hosts, show off Lake Bluff, and let others spend their money here. He does not believe there is anything wrong with these ideas. He discussed the home improvements he made to his dilapidated home and his goals in leasing short-term.

Linda Neumann, resident, came forward to address the Board. She stayed in a HomeAway before and does not think it will work here, where neighbors are close to one another. She asked if the Board had looked at studies or considered commissioning a study. She voiced her support for a referendum.

Adjournment

A motion to adjourn was made, seconded, and passed on a unanimous voice vote. The meeting adjourned at 7:12 p.m.

Respectfully Submitted,

R. Drew Irvin
Village Administrator