

CITY OF CLEVELAND
CITY COUNCIL MEETING
FEBRUARY 14, 2022
MINUTES

CITY COUNCIL MEETING

The City Council Meeting of the Mayor and Council of the City of Cleveland was called to order by Mayor Josh Turner at 6:30 p.m.

Mayor Turner thanked everyone for attending on Valentine's Day.

COUNCIL MEMBERS PRESENT: Nan Bowen, Rebecca Yardley, Jeremy McClure and CJ McDonald.

INVOCATION – JEFF FORD FIRST BAPTIST CHURCH OF HELEN

Jeff Ford, First Baptist Church of Cleveland, asked everyone to stand and gave the invocation for the City Council meeting.

APPROVAL OF AGENDA

On motion by Rebecca Yardley, seconded by CJ McDonald, in favor – Nan Bowen and Jeremy McClure and carried unanimously, the Mayor and Council approved the agenda for the February 14, 2022 City Council Meeting.

WORK SESSION

The Mayor and City Council began with items for a work session.

- Ed Ward – to discuss referendum for package sale of distilled spirits (package stores)
Mr. Ward was not present.

- **SHORT-TERM RENTAL ORDINANCE**

The Mayor and Council reviewed and discussed the Short Term Rental Ordinance.

Tom O'Bryant explained the ordinance was originally presented in the fall of 2021. The Planning and Zoning Board held a public hearing and submitted comments and recommendations to the city council. The council did not act on it as it was late in the year and several council members felt the new council should consider. There is a need for short term rental due to an increase in tourism. Local cabins and motels are booked and visitors are looking for facilities to stay.

The ordinance provides for regulations to allow for short-term vacation rental which includes requirements of the life fire/safety code, occupancy, noise control, parking requirements to prevent off-street parking. All of the requirements are written to provide some protection to the renter and to the surrounding community.

Council members provided comments on the draft ordinance.

Rebecca Yardley questioned the local contact person being available within one hour of contact. Mr. O'Bryant explained, in the case of emergency, police, fire, or city staff would need someone to respond in a timely manner.

WORK SESSION – continued

SHORT TERM RENTAL ORDINANCE

Ms. Yardley asked if an application and fee schedule was available for review. Ms. Yardley expressed she did not want the city in another situation in which an application was not available at the time someone applied for a license. Mr. O'Bryant answered the application will depend on the changes made to the ordinance. An application and fee schedule will be created once the final recommendations are made to the ordinance.

Mr. O'Bryant recapped some of the comments/concerns submitted by council members.

12-388 a. – suggested to take out the classification of vacation home and just list as home. This is for those that rent part of the year and return to live in the residence a part of the year.

12-388 4. – suggested the one hour time to respond to a complaint or incident is a strict requirement

12-388 6. – believes the ten day notification in change of contact should not be grounds for permit revocation

12-389 6 h. – verification of adequate sewer capacity or, if on septic, a performance evaluation from the Health department. It was suggested this section be deleted in its entirety

6 i. – the requirement of the number and location of parking spaces to be used by guest. It was suggested this section be deleted in its entirety

6 j. – requirement of certification of no deed and/or covenant restrictions - It was suggested this section be deleted in its entirety as the city does not enforce deed and/or covenant conditions

6 k. – certification that property is commercially insured. It was questioned if the city should be named as additional insured.

12-389 B. a. – questioned why the occupational license and renewal of the short term rental permit is required to be renewed annually at the same time.

12-389 C. 3. – section states the overnight occupants shall not exceed two persons per bedroom, plus two additional persons. It was questioned on why only two additional occupants and not three or four. Council notes to the ordinance does not agree the occupancy limits should not be based on public sewer or septic.

12-389 C. 5. – suggested to delete the following – A bedroom shall be a room that is designed to be, or meets the building code requirements to be used as a sleeping room and for no other primary purpose. Every bedroom shall have an emergency escape or rescue exit and a minimum ceiling height as follows:

a. Each bedroom shall have at least one operable window or door for emergency escape or rescue that opens directly to the exterior of the residence. The emergency door or window shall be operable from the inside to provide a full clear opening without the use of separate tools and shall comply with all current requirements of the International Residential Code (IRC)

b. Bedroom ceilings shall comply with all current requirements of the IRC

The suggested replacement language is to state “Bedrooms must meet all applicable building codes and local ordinances including but not limited to the IRC, Cleveland Ordinance, etc.” (etc would be other regulations that would apply)

12-389 C. 6 - The owner or local contact person shall, by written agreement with the responsible person, limit daytime occupancy of the short-term rental to the specific number of daytime occupants designated in the short-term rental permit application, with the number of daytime occupants not to exceed four (4) guests in addition to the total number of allowed overnight occupants, but in no case shall the daytime

WORK SESSION – continued

SHORT TERM RENTAL ORDINANCE

occupancy of a short-term rental exceeds 19 persons. Daytime guests shall not be allowed on the premises of a short-term rental between the hours of 11:00 PM and 7:00 AM;

It was suggested this paragraph is too stringent, stating the city does not require residents to only have a certain number of guests over and to make them leave at 11:00 p.m. and did want to impose different property restrictions on different sets of people.

12-389 C. 8 a. – questioned on why there is a limit on vehicles. Limit on vehicles is not a requirement in the zoning ordinance. The suggestion is as long as the vehicles fit in the driveway at the house and are not spilling into the street/ROW, the overall number should not matter. There was also a suggestion to remove the need for impervious surfaces for parking. Gravel drives are not impervious.

12-389 C. 8. b. – per council member notes, adamantly opposed to the following: Shall be recorded in writing by the owner or local contact person and include the name and address of each occupant and/or guest and the corresponding vehicle make, model, year, and tag number. This information shall be readily available upon request of any officer of the City

12-389 C. 8. d. – it was questioned on the enforcement of vehicles not parked in designated parking areas.

12-390 A. 1. d. – it was questioned if the requirement of a sketch of the parking area is necessary

12-390 A. 1. g. – per council member notes fundamentally disagrees with the following g. The times that quiet hours are to be observed per this regulation shall be from 11:00 p.m. to 7:00 a.m. and a statement advising the occupant that any failure to comply with the noise regulations is a violation of this article. Mr. O'Bryant had changed the section to read: The times that quiet hours are to be observed per the noise regulations of the City Code and a statement advising the occupant that any failure to comply with the noise regulations is a violation of this article.

12-390 D. 1. – per council member notes - the annual site inspection by the fire department is excessive.

12-390 D. 4. – questioned if two fire extinguishers per floor is excessive

12-392 A. – questioned on the redundancy of violating the noise ordinance

12-392 C. – per council member notes – the following is too harsh - Each day the short-term rental is marketed or rented for overnight accommodation without the necessary short-term rental permit required under this article shall constitute a separate violation.

12-394 C. – per council member notes – the following may be too intrusive - At the hearing, after presentation of the case against the adverse party, the adverse party will have an opportunity to present his case, to rebut the allegations made against him, and present whatever defenses he has. The adverse party shall have the right to be represented by an attorney, at the expense of the adverse party, and to present evidence and cross-examine opposing witnesses.

Rebecca Yardley reiterated the need to have an approved application and fee schedule at the time the ordinance is adopted. Mr. O'Bryant informed the application will be developed by the final adopted ordinance.

Mayor Turner explained if the council is not ready to make specific amendments to the first reading of the draft ordinance, the first consideration will need to be delayed. Mayor Turner asked if the Planning and Zoning Board will have to rehear and Mr. O'Bryant answered no.

WORK SESSION – continued

SHORT TERM RENTAL ORDINANCE

Mr. O'Bryant added the Mayor and Council will need to act on the zoning classification and all the areas mentioned will be addressed. The Mayor and Council agreed the zoning classification needs to be approved at time of the adoption of the ordinance.

C.J. McDonald expressed his concerns of the ordinance:

- The amount of occupants that are allowed to stay above the two person per bedroom occupancy.
- Concern of the designated quiet time which is more than what is stated in the city's noise ordinance.
- Required parking area
- Property manager collecting information on vehicles of occupants
- Feels the life safety code requirements are too excessive such as the requirement of two fire extinguishers per floor.
- Concerns over the hearing procedures for denial or revocation of a permit.

Ms. Yardley again expressed concern that the required application was not a part of the review for the work session. Mr. O'Bryant explained the application has to be developed on the final requirements of the ordinance. Ms. Yardley does not want the city in a situation without an application as the city is currently experiencing.

Mayor Turner asked about the fee schedule. Mr. O'Bryant informed the fees are to cover administrative duties, fire and building inspections. Ms. Yardley asked if this was on top of the occupational license and Mr. O'Bryant answered yes.

Ms. Yardley asked how the occupancy was determined. Mr. O'Bryant stated it was standard language in other city and county ordinances. Nan Bowen asked if a room with bunkbeds, allowing for more than two people, be allowed. Mr. O'Bryant informed the council could consider just stating a fifteen person occupancy and the occupants can occupy rooms as needed to accommodate all guests.

Ms. Yardley asked who will enforce 12-388 b. 4 which addresses local contact and response time. Mr. O'Bryant has found it is standard language in ordinances. Police and administration would enforce. The intent is to have someone responsible for the property available in the case of an emergency, complaints, or violations.

Mayor Turner expressed concern of the requirement of commercial liability insurance. He feels it goes too far and may be a burden on the property owner. Mr. McDonald agreed. Mr. O'Bryant explained a short-term rental is a commercial use. Mayor Turner suggested a comprehensive policy should be sufficient.

Ms. Yardley asked why the occupants are limited to four guests that are staying at the short term rental house and the reasoning for the time stated for no visitors as stated in 12-389 C. 6. Mr. O'Bryant explained short-term rental is meant for vacation occupancy and should not be used as an event facility. Mr. McDonald feels 12-389 C. 6 should be completely deleted.

WORK SESSION – continued
SHORT TERM RENTAL ORDINANCE

Mr. McDonald questioned the parking requirement of impervious surfaces. He did not think the city required paved driveways or parking areas. Mr. O'Bryant informed the city does required paved driveways and parking. There are some older homes that may have gravel drives.

Ms. Yardley questioned 12-390 A. e. The trash pickup day and notification that trash and refuse shall not be left or stored on the exterior of the property unless it is placed in a curbside container, and that the curbside container shall not be placed sooner than 24 hours prior to the pickup day, and must be removed no later than 24 hours after pickup

Mr. O'Bryant answered it was meant to not have garbage in view of surrounding neighbors. Ms. Yardley stated it was not a requirement of residents. Mr. O'Bryant informed customers are told but many do not comply. Ms. Yardley replied a majority of residents on Head Street do not bring in the garbage can from the street. Mr. O'Bryant feels it would prevent over-flowing garbage at the road more than a day before pickup.

Jeremy McClure asked about the requirement to use city sanitation in residential areas. Mr. O'Bryant explained short term rentals are considered commercial and have the option to use a private sanitation carrier.

Mr. McDonald expressed his concerns of 12-390 A. g. concerning noise and the times of quiet hours. He understands the intent but does not feel it should be more strict than the city's noise ordinance and should not dictate quiet times.

Ms. Yardley asked who was going to track bankruptcy referred to in 12-391. Mr. O'Bryant answered bankruptcies are reported to the county and the intent is to make sure the city has the correct contact information for the short term rental. It's another avenue fail-safe to have all the correct information on file.

Mayor Turner asked about denials and suspensions appealed to the city judge. Mr. O'Bryant answered may send to magistrate court or for city violations the city judge.

Mr. McDonald asked what is the next step in moving forward with the ordinance. Mr. O'Bryant answered he will present a new draft for review.

Mayor Turner asked Lt. Mark Gunter, Fire Department, if the facilities would need a site inspections. Lt. Gunter answered it is required for long and short term rentals, as well as apartments, in accordance with the Life Safety Code adopted by the city. The fire department has conducted inspections in the past.

Ms. Bowen asked about the quantity of fire extinguishers. Lt. Gunter answered it depends on the size of the building and the occupancy load. It is stated in the Life Safety Code and a specific amount may not be across the board. Mr. McClure asked if it should be a case-by-case determination. Lt. Gunter answered it depends on Life Safety Code. Lt. Gunter reminded the city has adopted all codes.

WORK SESSION – continued

SHORT TERM RENTAL ORDINANCE

Mayor Turner requested the ordinance be forwarded to the Fire Chief and Police Chief for review and input. Mr. O'Bryant informed he has discussed it with Chief Pruitt. Mayor Turner asked for it be reviewed again with police and fire departments.

During the discussion of the short term rental ordinance, Mr. Ed Ward arrived to discuss the package store referendum. Mr. Ward apologized for being late but thought the meeting began at 7:00 p.m. Mayor Turner asked the Council if they had any problem with continuing the work session and allow Mr. Ward to discuss package stores. The Council did not have a problem with Mr. Ward addressing the Council.

Ed Ward – to discuss referendum for package sale of distilled spirits (package stores)

Mr. Ed Ward came before the council to discuss the city's need for a package store to sell beer, wine and distilled spirits. Mr. Ward believes a package store will bring jobs to Cleveland. He believes he has the perfect lot to build a package store and he has proven he can run a good business. The property he owns can support a nice package store that can be built to the Clarkesville required size of 3000 square feet. Mr. Ward has a letter from GDOT stating his entrance is sufficient as long as the use remains retail or restaurant. GDOT may require a right in /right out driveway entrance from North Main Street/Hwy 129 N. His property meets all distances from churches, schools, etc. Mr. Ward believes the condition of the motel behind his property is an issue. Mr. Ward will provide façade and landscaping designs for the council to approve.

Mr. Ward is asking the council to call for a special election and put the question on the ballot for this November 2022 election. He feels there is a better turnout and response during a state/federal election. He is confident it will pass.

Mayor Turner asked if anyone from the public would like to comment on the proposal. Mr. Terry Goodger, Cleveland resident and White County Commissioner, stated he is opposed to a package store in Cleveland. Mr. Goodger feels the city and the county have come a long way to accommodate local restaurants with beer, wine and distilled spirits by the drink sales. Mr. Goodger does not feel a package store is needed in Cleveland.

PAWN SHOP ORDINANCE – AMENDMENTS AND SCHEDULE OF FEES 1st READING

Chief Shoemaker explained the ordinance has been in effect since 2008 but there were sections in the ordinance that were repetitive, out of date, and needed to be updated. Chief Shoemaker reviewed several cities and counties pawn ordinances and highlighted areas that best served the city. As regulating and writing an ordinance is new to him, Chief Shoemaker feels he has learned a lot about the business of pawn brokers. Chief Shoemaker stated he feels the changes are the proper steps.

Mayor Turner asked Mr. O'Bryant for comment. Mr. O'Bryant informed the establishment of fees varied from different government agencies. The fees should cover administrative duties, background checks and monitoring.

PAWN SHOP ORDINANCE – AMENDMENTS AND SCHEDULE OF FEES 1st READING – continued

Mayor Turner asked Mr. Todd Turner, owner, his comments on the ordinance requirements.

Mr. Todd Turner informed he went to the city to get a business license the first of December. Mr. Turner previously occupied a unit at the Mt. Yonah Plaza on Helen Highway. He has recently acquired a building on West Kytle Street and is currently operating a drywall business. Mr. Turner would like to include a liquidation pawn broker business in the same building.

Mr. Turner applied for his federal firearms license and was told by the ATF the license could not be approved as the city has a pawn broker ordinance on file and would need to be issued a pawn broker license from the city. Mr. Turner does not understand why the city needs backgrounds on employees. He conducts all the background checks and he is responsible for his employees. He feels it is unnecessary for all employees, which includes in his opinion, someone that would take care of the lawns. Mr. Turner also question why he would have to hold a pawned firearm for 30 days. Mr. Turner stated that he could have moved a mile up the road in the county and could have sold a pawned firearm five minutes after left at his shop. Mr. Turner informed the county does not regulate pawn businesses.

Jesse Turner, co-owner and son, expressed the city is making them jump through hoops and Cleveland is not big enough to have these requirements. Mr. Turner added his business relies on paper documentation and does not have the capability for electronic reporting.

C.J. McDonald asked if the ATF would approve a license if Mr. Turner only wanted to sell firearms. Mr. Turner said yes, but to pawn firearms you must have a city regulated business license.

Jeremy McClure asked when someone tries to pawn a firearm and it turns out to be stolen, who is notified. Chief Shoemaker answered if you trade firearms a 4473 form must be filed. Chief Shoemaker added if a pawn business is lending money on a pawned item, the business must hold the item for thirty-days to allow the person to pay back the loan and retrieve their merchandise. Chief Shoemaker informed the requirement of the fingerprint and photo is in the existing ordinance and as White County does not have an ordinance, he researched Forsyth's ordinance and tried to cover the basics.

Jesse Turner stated the White County Sheriff's office checked the ownership of firearms at their own discretion and there was not a data base. Chief Shoemaker informed NCIC will list stolen firearms that are reported. The process is a little comparative to the metal trade.

Ms. Yardley questioned why the business license was issued. Mr. O'Bryant replied an occupational tax license was issued. The original ordinance was adopted 2008 and an application or fee schedule was not developed. Connie Tracas informed former Chief John Foster wrote the original ordinance. Chief Foster only presented ordinances for approval if he felt there was a need.

PAWN SHOP ORDINANCE – AMENDMENTS AND SCHEDULE OF FEES 1st READING – continued

Mr. Turner asked if he doesn't pawn can he sell firearms. Mayor Turner asked Chief Shoemaker if there are requirements for selling firearms. Chief Shoemaker answered to the best of his knowledge and if the ATF issues a license, there are no known additional requirements. Mr. Turner responded he may just conduct retail sales and when the city works out the ordinance he may come back and apply for a pawn license. Mr. McClure stated he did not want to inconvenience Mr. Turner because of the city's error.

Connie Tracas explained the difference in the occupational tax license and a regulated business license. Occupational tax license is issued to general businesses that do not need oversight. A regulated business license are for businesses regulated through city ordinances and at time referenced through state codes. The regulated business ordinances are meant to protect the consumer and the community such as alcohol license, taxi cab ordinance, etc.

Ms. Yardley informed she did her research and questioned why the city's application included three additional pages to Dawsonville's five pages. Mr. O'Bryant answered the additional pages are the consent forms for background checks. Ms. Yardley stated Dawsonville receives background checks conducted by the ATF.

Mayor Turner suggested the ordinance state background checks are for those only pawning or selling pawned items. Nan Bowen asked if at least one staff member will be selling or accepting pawned items during store hours and Mr. Turner answered yes.

Mr. McDonald would like to see substantive changes to the ordinance and reschedule.

On motion by C.J. McDonald, seconded by Nan Bowen, in favor – Rebecca Yardley and Jeremy McClure, and carried unanimously, the Mayor and Council voted to postpone the first reading of the Pawn Shop Ordinance until March 7, 2022. Ms. Tracas informed the ordinance could be repealed if the council and or Chief Shoemaker felt the ordinance was unnecessary. This would require two public hearings.

Mr. Turner informed, at this time, he will leave the pawn off and deal in gun sales.

CHIEF RICKY PRUITT – FIRE DEPARTMENT

In the absence of Chief Pruitt, Lt. Mark Gunter, Fire Department, presented the statistics for January 2022.

Lt. Gunter informed the department responded to 88 calls – 44 within the city and 44 outside the city in the automatic aid area. Lt. Gunter added White County Fire had to respond 8 times within the city due to city fire responding to county calls.

CHIEF JEFF SHOEMAKER – POLICE DEPARTMENT

Chief Jeff Shoemaker presented the department statistics for January 2022. The department reported 2465 activities for the month.

Community Oriented & Proactive: Public Assist – 407; Premises Check – 1300; Field Interview - 7
Reporting: Incident Report - 65; Accident Report – 18; Investigative / Supplemental – 99;
Administrative Duties - 302

Actions taken: Citation – 136; Warnings – 109; Warrants – 21; Juvenile – 1

Citation Breakdown: Misdemeanor, non-traffic- 11; DUI, Alcohol, & serious offenses- 10; Driver's license, Registration, & Insurance- 41; Moving violations, traffic control, etc- 60; Equipment, seatbelt, etc- 14

TOM O'BRYANT – CITY ADMINISTRATOR

Tom O'Bryant, City Administrator, presented the January statistics for public works department. The report reports the activities that are above day to day job duties.

New water cut-in and sewer cut-in – 2; Meter change out – 12; Sewer backup – 1; Dumpster repair/replace – 1; Miscellaneous – 21; Check for leak – 7; Police car repairs – 1; Final reading do not lock - 15; Garbage request - 6; Inspection – 5; Cut-off and lock meter - 1; Garbage request change - 4
Final read and lock meter- 12; Payment agreement – 1; Street repair – 2; Meter inspection – 6;
Residential turn-on – 20; Commercial turn on – 4; Residential just unlock do not turn on - 1

CONNIE TRACAS – FINANCE REPORT

Connie Tracas, Finance Officer, presented a financial report for January 2022. The report is not to the adopted the budget, but a comparison of the general fund revenues and expenditures; water/wastewater revenues and expenditures, and the revenues of the local option sales tax (LOST) for the month of January 2021 and January 2022.

General Fund revenues are down 22% from this time in 2021, expenditures are up 4%

Water/Wastewater revenues are down 18%, expenditures are down 22%

LOST receivables are down 4%

Ms. Yardley noted LOST is actually up when compared to the adopted 2021-2022 budget. Ms. Tracas speculated the increase is due to internet sales. The tax is paid to the county of the paying customer and not to the area of the shipper or recipient.

Ms. Tracas informed the council of the progress of Low Income Home Water Assistance Program. Back in November of 2021, the Mayor and City Council agreed to the terms and conditions to participate in the Low Income Home Water Assistance Program. This program is administered through 9th District Opportunity.

Based on the request of the applicants, the funds pay for delinquent, current and/or future utility bills. The funding can be applied to water/sewer/garbage fees and penalties. To date the city's utility customers have been awarded funding for the utility bills: 37 utility customers \$11,357.00.

CONNIE TRACAS – FINANCE REPORT

At the time of the report, 9th District had approximately \$90,000 to distribute. City staff have been identifying and contacting those they feel will benefit from the program.

Ms. Tracas informed she will team up with Beth Truelove and give a history on LOST. The county should have a referendum for the continuance of LOST for the November election.

GRANT KEENE – CITY ATTORNEY

Grant Keene, City Attorney, did not have new business to report.

NEW BUSINESS

1. Public comments – Beth Truelove, White County Chamber of Commerce, expressed her appreciation of the council considering a short term rental ordinance. With the growing market of event venues, the need for visitors having a place to stay is significant. Ms. Truelove added it is a type of business that will fit in with the city's community.

OLD BUSINESS

1. On motion by Nan Bowen, seconded by Rebecca Yardley and carried unanimously, the Mayor and council voted to approve and sign the minutes of December 6, 2021. C.J. McDonald and Jeremy McClure did not vote on the minutes as they were not in office at the time.
2. On motion by Rebecca Yardley, seconded by Nan Bowen, in favor – Jeremy McClure and C.J. McDonald, and carried unanimously, the Mayor and Council voted to approve and sign the minutes of January 10, 2022.

EXECUTIVE SESSION

On motion by CJ McDonald, seconded by Rebecca Yardley, in favor – Nan Bowen and Jeremy McClure and carried unanimously, the Mayor and Council voted to enter into executive session to discuss personnel issues at 7:59 p.m.

RETURN TO COUNCIL MEETING

On motion by Rebecca Yardley, seconded by Jeremy McClure, in favor – Nan Bowen and C.J. McDonald and carried unanimously, the Mayor and Council voted to return to the city council meeting at 8:15 p.m. Mr. McDonald checked to see if anyone had stayed to return to the meeting and invited them to return to the council meeting room.

No further business was discussed.

ADJOURNMENT

On motion by Rebecca Yardley, seconded by Jeremy McClure, in favor – Nan Bowen and C.J. McDonald, and carried unanimously, the Mayor and Council voted to adjourn the meeting of February 14, 2022 at 8:16 p.m.

Signatures next page

Josh Turner
Josh Turner Mayor

Jeremy McClure
Jeremy McClure Council Member
Ward 3

Nan Bowen
Nan Bowen Council Member
Ward 1

C.J. McDonald
C.J. McDonald Council Member
Ward 4
Mayor Pro Tem

ABSENT
Rebecca Yardley Council Member
Ward 2

ATTEST: Connie Tracas
Connie Tracas City Clerk

