

VILLAGE OF NORTH UTICA
801 South Clark Street, North Utica, IL 61373
Planning Commission
Public Hearing
February 27, 2020
www.utica-il.gov

AGENDA

- I. **6:00 p.m.** Call to Order
- II. Pledge of Allegiance
- III. Roll Call

- IV. **6:00 Continued Public Hearing:**
 - 1.) Consideration of potential amendments to the Village of North Utica Zoning Ordinance (Title 10 et.al.), including, but not limited to, provisions within Definitions Section (Section 10-2-1 et.al.) and in regard to consideration of whether, in what circumstances, and/or in which zoning districts, cannabis dispensary business establishments, cannabis growth and/or manufacturing businesses, and cannabis social areas may be allowed, including, but not being limited to, consideration of allowances as defined within provisions of the recently enacted State of Illinois Cannabis Regulation and Tax Act and any and all other matters related in any matter to the growth, manufacturing, sale and/or use of cannabis within the corporate limits of the Village of North Utica and matters related thereto.
 - 2.) Discussion and Possible Recommendations of the Planning Commission regarding such Hearing.

- V. **6:30 Continued Public Hearing:**
 - 1.) Consideration of potential amendments to the Village of North Utica Zoning Ordinance (Title 10 et.al.) including, but not limited to provisions amending the Definitions Section (Section 10-2-1 et.al.) and the Rural Residential District (Section 10-7D-1 et.al.) in regard to consideration of and under what conditions and/or circumstances, and/or in which zoning districts, short-term vacation home rentals may be allowed, and if so allowed, consideration of what regulations regarding the location, operation, taxation, and regulation of such may be required to assure such operations is safe and minimizes any potential adverse effects on the community, and consideration of any and all other matters related to the location, installation, and operation of short-term vacation rentals, to the extent such are permitted.
 - 2.) Discussion and Possible Recommendations of the Planning Commission regarding such Hearing.

- VI. Adjournment

POSTED 02-25-20

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At 6:04 pm the meeting was called to Order by Planning Commission Chairman Tom Guttilla who then led the Pledge of Allegiance. Village Clerk Laurie Gbur recorded the meeting attendance. Present at the meeting were Members Doug Gift, Dennis Hamilton, Warren Munson, Roy Chapman, Bill Zens and Mike Brown. Also present at the meeting was Village Attorney Herb Klein, Village Engineer Kevin Heitz, and Zoning Enforcement Officer Curt Spayer.

Attorney Klein provided a brief summary of the Petition for Public Hearing regarding potential amendments to the Village of North Utica Zoning Ordinance (Title 10 et.al.), including, but not limited to, provisions within Definitions Section (Section 10-2-1 et.al.) and in regard to consideration of whether, in what circumstances, and/or in which zoning districts, cannabis dispensary business establishments, cannabis growth and/or manufacturing businesses, and cannabis social areas may be allowed. The Public Hearing was continued from December 5, 2019 pending further research and review of the information. There are no current Petitions for such, however, the Village Board would like to have regulations related to the operation of a business related to cannabis growth, manufacturing and social use.

Chairman Guttilla asked if there are State regulations that would be required in a dispensary.

Attorney Klein stated that the Village doesn't have to allow a cannabis business, but the Planning Commission can recommend regulations that the Board can consider. This would include regulations for parking, location, hours and size of the business.

Chairman Guttilla stated that it seemed that there was a rush for people to purchase product when it was legalized earlier in the year. It would be good to have some regulations in place in the event that the Village would receive a Petition for a cannabis business.

Member Gift asked if a Special Use would be required so that someone would have to come to the Village with their plans.

Attorney Klein stated that the Planning Commission can make recommendations for the Village Board of Trustees to consider.

Member Gift also asked if the State of Illinois limits the number of cannabis dispensaries in a certain region?

Attorney Klein stated that he would like to research that information. He also stated that there is a dispensary located in Ottawa, however it had been a medical dispensary but recently it was permitted to begin recreational adult use cannabis sales.

Member Chapman asked if cannabis can only be purchased at a dispensary.

Attorney Klein stated that he will do some research and review the State of Illinois regulations.

Utica Fire Department Fire Chief, Ben Brown was sworn in to provide Testimony.

Chief Brown stated that he believes that if there were a dispensary to open in the Village, it could lead to larger issues at the State Parks in the area.

Attorney Klein stated that use of cannabis is not allowed in the State Parks.

Chairman Guttilla asked if it has to be used at home because that could be hard to regulate.

Attorney Klein answered that cannabis is not allowed to be consumed in public and it is still federally illegal.

Attorney Klein also stated that in 2019 the Village Board approved an Ordinance establishing a 3% Cannabis Tax in the Village of North Utica.

It was then motioned by Member Brown, seconded by Member Chapman to Continue the Public Hearing at a meeting being held at 6 pm on March 26, 2020, pending further research and review of the information. Attorney Klein stated that no additional publishing will be necessary.

6 Yes

Motion Carried

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At 6:30 pm, Chairman Guttilla led the Pledge of Allegiance and the Clerk recorded meeting attendance before beginning the next Public Hearing. Present at the meeting were Members Doug Gift, Dennis Hamilton, Warren Munson, Roy Chapman, Bill Zens and Mike Brown. Also present at the meeting was Village Attorney Herb Klein, Village Engineer Kevin Heitz, and Zoning Enforcement Officer Curt Spayer.

Attorney Klein provided a brief summary of the Petition for Public Hearing for the consideration of potential amendments to the Village of North Utica Zoning Ordinance (Title 10 et.al.) including, but not limited to provisions amending the Definitions Section (Section 10-2-1 et.al.) and the Rural Residential District (Section 10-7D-1 et.al.) in regard to consideration of and under what conditions and/or circumstances, and/or in which zoning districts, short-term vacation home rentals may be allowed, and if so allowed, consideration of what regulations regarding the location, operation, taxation, and regulation of such may be required to assure such operations is safe and minimizes any potential adverse effects on the community, and consideration of any and all other matters related to the location, installation, and operation of short-term vacation rentals, to the extent such are permitted.

Notice of Public Hearing was published in the LaSalle News Tribune on November 20, 2019. The Public Hearing was continued from December 5, 2019 to February 27, 2020 at 6:30 pm.

Attorney Klein introduced, Brenda from Launius Reporting Service, and then stated that Brenda will swear in anyone who would like to speak to provide Testimony.

Attorney Klein also stated that the Hearing will follow the Rules of Procedure, and everyone who would like to speak, will have that opportunity. Copies of the Rules of Procedure were available to everyone.

Attorney Klein stated that the Planning Commission met on December 5, 2019. Testimony was provided by Ms. Christy Donahue. Owner of Willow Tree Lane Bed & Breakfast in Utica; and by Ms. Faye Davis., owner of property at Grand Bear Resort. Ms. Davis then presented a letter from Sonnenschein Groupe along with a copy of the proposed rental agreement.

Village Engineer Kevin Heitz, Mr. Steve Darby and Mr. Gideon Blustein also provided Testimony.

Notice of Public Hearing – Village Exhibit #1

Draft Ordinance prepared by Attorney Klein – Village Exhibit #2

The Planning Commission was unanimous in their vote to continue the Public Hearing to February 27, 2020 at 6:30 pm.

Village President David Stewart was sworn in. He explained that he formed a committee to research other communities for regulation of Short-Term Vacation Rentals in certain zoning districts.

Chairman Guttilla stated that the Village is trying to determine the regulations that are needed to be able to adopt an Ordinance regulating the Short-Term Vacation Rentals.

Village of North Utica Chief of Police, Rodney Damron, was sworn in to provide Testimony.

Chief Damron stated that he supports the Village having an Ordinance for the regulation of Short-Term Vacation Rentals. An Ordinance would further define regulations for maintaining peace and safety and it would allow for penalties for those individuals that are not following the rules. Chief Damron also stated that he would like to make sure that the name of the Owner of the property is included so that his department is able to contact someone in the event of any issues at their property.

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He cited an example: A 17-year old rented a property and had an illegal drinking party. There was underage, illegal drinking on the property and the Village needs to ensure that in cases like these, it would be nice to have a name so that there is someone that could be contacted in emergencies or when there is an issue. This was also not the first time that these individuals had been involved in renting a property for the purpose of having an underage drinking party.

Member Gift asked Chief Damron about security at the Grand Bear Resort and whether the Police Department is doing a patrol of the property.

Chief Damron answered that the Village of North Utica Police Department does do a patrol of the property.

Chairman Guttilla asked if there was anyone that would like to speak in favor of the Petition.

Mr. Mark T. Fill was sworn in to provide Testimony.

Mr. Fill stated that he had been an owner of property located at Grand Bear Resort since 2006. When he purchased his property the intent of the entire resort was that it was a family resort and would attract more families back into the area to enjoy the property and the facilities. Despite that there have been issues, the new owners, Sonnenschein Group, are working to improve the property. Mr. Fill has been in the Resorts' Rental Pool from the beginning.

Chairman Guttilla asked Mr. Fill if Grand Bear Resort takes care of everything and if they keep records of things.

Mr. Fill answered, "yes."

Member Gift asked Mr. Fill if when the property was purchased, did he receive legal documents and restrictions, including information about the rental pool.

Mr. Fill answered, "yes."

Member Gift asked if those legal documents go with the properties if they are ever sold.

Mr. Fill answered, "yes."

Member Brown asked Mr. Fill if the rental agreement includes a minimum and maximum occupancy allowed within the unit.

Mr. Fill answered, "yes"; "the Villas are allowed a maximum occupancy of 8 people and the Cabins are allowed a maximum occupancy of 18 people."

Member Zens asked Mr. Fill if the Resort cleans and covers everything including insurance.

Mr. Fill answered, "yes, and we are insured."

Member Chapman asked Mr. Fill how many units are in the rental pool at the Resort.

Mr. Fill answered, "55 units are in the rental pool out of a total of 188 units."

Attorney Klein stated that there are some property owners located at the Resort that do not want to rent out their property at all.

Member Chapman asked Mr. Fill if there are maintenance issues happening at the Resort.

Mr. Fill answered, "if there is an issue, the unit will be removed from the rental pool until it is repaired."

Member Zens asked Mr. Fill about the overnight rental cost of the units.

Mr. Fill answered, "the Resort makes that decision as it depends on the season and the length of the stay."

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Member Gift asked Mr. Fill if Hotel Motel Occupancy Tax is taken from the percentage that the owners of the property receive from the rental pool.

Mr. Fill answered, “the 40% that the Resort pays the owner of the rental covers the Hotel Motel Occupancy Tax.”

Mr. Gift asked if Grand Bear Resort is current with the Hotel Motel Occupancy Tax that they remit.

Mr. Fill answered, “yes.”

Mr. Tyler Tomczak asked Mr. Fill about a party that was held in one of his units and about the dangerous balcony that fell. Mr. Tomczak stated that the balcony was not repaired by the Maintenance staff and that’s why there was an issue with it.

Mr. Fill answered, “yes, the receiver management was running the Resort at that time.

Mr. Walter Kosch asked Mr. Fill whether the Resort was under the new and current management at that time.

Mr. Fill answered, “yes.”

Ms. Laurie Dreer stated that she owns a unit at the Resort and she asked Mr. Fill if he knows what the process is within the rental pool.

Mr. Fill answered that he does not know what the process is; he is not part of the administration.

Ms. Jill Ohlendorf was sworn in to provide Testimony.

Ms. Ohlendorf stated that the balcony was in a state of disrepair when the unit was rented.

Mr. Fill stated that he was not aware of the condition at that time.

Member Gift asked Ms. Ohlendorf if she is renting her unit outside of the rental pool and whether she has been sending in her Hotel Motel Occupancy Tax.

Ms. Ohlendorf stated that there is no current procedure in place.

Attorney Klein then stated that the Planning Commission and Village Board consider what is being presented at the Public Hearing, not anything that arrives earlier or later, whether it is comments or correspondence / letters.

Ms. Faye Davis asked Mr. Fill who has the responsibility to pay for the repairs; is it the owners?

Mr. Fill stated that once repaired things are inspected and then the State will issue a permit. The cost is the owners’ responsibility.

Ms. Barbara Tomczak asked Mr. Fill if he is part of the Resort Management. (Sonnenschein Groupe)

Mr. Fill stated that he is not part of Resort Management; he is President of a Homeowners’ Association.

Ms. Tomczak then asked about the receivership that had been appointed to run and oversee the resort.

Mr. Fill stated that Sonnenschein collects the dues and is managing the records.

Attorney Klein then stated that previously the Resort had some financial issues. The A.R.M. receivership was appointed by the bank to manage the Resort. They collected and remitted the Hotel Occupancy Tax, and they were paid by the Court.

The Resort has now been sold to new owners. They were not involved when any of the previous issues happened.

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Attorney Heidi Nelson asked Mr. Fill what documents are provided to a prospective buyer when they are purchasing a home at Grand Bear Resort.

Mr. Fill answered that he purchased his property a long time ago and he believes that buyers must do their due diligence when purchasing any property.

Shyama Ramaiya asked Mr. Fill if there are 188 units in Phase I and Phase II, how many units are currently in the rental pool?

Mr. Fill stated that there are 55 of these units currently in the rental pool.

Shyama then asked Mr. Fill how many units he owns.

Mr. Fill answered, "eleven units."

Shyama then asked if the pool is prioritized and if renting out each of the units is fair among all of the available rental units.

Mr. Fill stated that there is a rotation system in place.

Mohil Patel asked Mr. Fill why he has purchased additional villas at the Resort.

Mr. Fill stated that he believes that it is a good investment choice and that the current rental agreement offers 40% to the property owner for renting out their unit through the rental pool.

Mohil Patel then stated that he believes there is preferential treatment in the rental pool.

Mr. Tyler Tomczak was sworn in to provide Testimony.

Mr. Tomczak stated that in the current rental pool agreement there is a net fee charge of 50% plus and additional 18% in booking fees.

Chairman Guttilla asked Mr. Tomczak when he had received is copy of the agreement.

Mr. Tomczak responded, "last year."

Member Brown then stated that the property owners and the Resort owners need to have their own meeting. The fees contained within the rental pool agreement is not something that the Planning Commission is discussing and has nothing to do with the Ordinance that is being considered.

Ms. Justine Sawriut, speaking to Mr. Fill, stated that some of the units haven't been rented in over a year.

Mr. Fill stated that that could be as a result of the current condition of the property.

Ms. Helene Seltzer, speaking to Mr. Fill, stated that a lot of the units weren't being rented while the pool was closed due to the fire damage.

Mr. Fill agreed and stated that the success of the entire Resort affects the rentals.

Attorney Klein reminded everyone that the Planning Commission was meeting to discuss changes to the Zoning Ordinance which would regulate short-term rentals throughout the entire community. He also stated that there is a lot of history at Grand Bear Resort, but the Planning Commission is not here to discuss that history. The concern of the Planning Commission is to hear relevant Testimony during a Public Hearing for the purpose of considering an Ordinance regulating short-term rentals.

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Chairman Guttilla then asked if there was anyone present that would like to speak in favor of the proposed Ordinance being considered.

Ms. Helene Seltzer was sworn in to provide Testimony in favor of the proposed Ordinance.

Mr. Seltzer stated that she purchased her cabin at Grand Bear Resort in 2016. She then read a letter that she had written.

Ms. Faye Davis asked Ms. Seltzer who her followers are.

Member Warren Munson then stated that the question was irrelevant. The Planning Commission is considering an Ordinance to regulate short-term rentals, not to determine anything about the rental pool process in place at Grand Bear Resort.

Member Gift then asked what part of the proposed Ordinance will address Grand Bear Resort.

Attorney Klein stated that in the proposed Ordinance, short-term rentals will be allowed in zoning districts C1, C2 and C3, with the administrative approval by the Village President, and in Rural Residential with a Special Use. The proposed Ordinance does not allow short-term rentals in any of the other zoning districts, including in the Grand Bear Resort P.U.D located in R3 zoning.

Member Gift asked if Grand Bear Resort would still be allowed to have a rental pool since that zoning district would not be allowed private short-term rentals.

Attorney Klein answered, “yes, because Grand Bear Resort has a current license to operate, which includes their rental pool. They also collect and remit all taxes for the entire Resort, including what is collected from the rentals in the rental pool.

Chairman Guttilla asked Attorney Klein if property owners can rent out their units at the Resort without going through the rental pool.

Attorney Klein answered, “no, they have to go directly through the rental pool to be able to rent out their units.”

Attorney Klein then stated that the Planning Commission could also consider that the Village would not allow any short-term rentals in the Village.

Member Gift asked if there will be fines or penalties for private rentals that do not comply with regulations of the Ordinance.

Attorney Klein stated that the Ordinance contains penalties and fines and the ability to enforce such.

Attorney Mike Fuller, representing Sonnenschein Group, the owners of Grand Bear Resort, spoke in favor of the Ordinance. The current rental pool agreement provides police with a point of contact for units rented and the units are always clean, maintained and stocked with supplies.

Mr. Walter Kosch, Sonnenschein Group, was sworn in to provide Testimony in favor of the proposed Ordinance.

Mr. Kosch stated that they have been in the resort business for over 35 years. They invested in the Village of North Utica because they believe it is a great community. They have already invested millions of dollars on the project and they have plans to continue to invest more as time goes forward. The project only works if everyone will participate in the rental pool. They would like to work with the property owners and move things forward in a very positive way. They have already developed three new agreements; one which would pay up to 60% to the property owners. The rental pool can make sure who is being rented to in order to avoid under-age drinking parties that result in many issues and enforcement. With private rentals there have been no checks and balances and there have been many issues. They can't control what happened in the past but would like to move forward with everyone in a positive way; they are willing to work with everyone.

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Member Brown asked Mr. Kosch how they would be able to know who is renting the property if it were to be rented out privately or from a website.

Mr. Kosch stated that there is no way to know who is renting the property, or when it is being rented. Renting the units privately is leading to many issues and the property owners are in violation.

Member Gift asked who can enforce the issues of renting out the units outside of the rental pool.

Mr. Kosch stated that renting the units privately is a violation because they are only supposed to be rented through the rental pool and the current Homeowners Association(s) should enforce that. Village Police would have to enforce violations for under-age drinking parties, but when the units are rented through the rental pool, we know who the unit is being rented to and can avoid those issues.

Attorney Klein then stated that Grand Bear Resort currently has a license to operate. The Village sent a letter to the property owners last year to notify them that private rentals are not allowed. The proposed Ordinance being considered outlines a clear penalty for violations.

Attorney Heidi Nelson stated that there are no restrictive covenants to keep property owners from renting out their units privately.

Mr. Kosch stated that the property owners are required to comply with the Village; currently there is only one license issued at the Resort. All others would have to rent their unit out through the license holder, which is Grand Bear Resort.

Attorney Nelson stated that this is the first time that the resort has indicated that they would work with the property owners to resolve the issue.

Mr. Kosch stated that there are three new agreements that offer 40%, 45% and 50% for the rental of their unit through the rental pool.

Attorney Nelson asked if the agreements are term agreements.

Mr. Kosch answered, "yes."

Attorney Nelson then stated that there is a \$35 monthly fee for the replacement of kitchen items.

Mr. Kosch stated that this is a fee that is also considered for a refund of some of the cost at the end of each year.

Attorney Nelson then stated that 50% of the rental being provided to the unit property owners for the rental of their property is not enough to cover the mortgage, utilities and HOA fees.

Mr. Kosch stated that the portion of the rental that is retained by Grand Bear is used toward expenses for marketing, vetting, maintenance and security. Doing all of these things will also allow the resort to charge a higher rental fee.

Attorney Nelson asked if the resort prioritizes the rental of certain cabins.

Mr. Kosch stated that the rental pool is on a rotation of qualified units.

Ms. Kerry Reigner asked Mr. Kosch if the private rentals being rented out at a very low price have caused or could cause the property values to decrease.

Mr. Kosch stated that higher rental prices and units that are maintained will always cause property values to increase.

Member Gift asked Mr. Kosch if guests renting the units are entitled to the resort amenities.

Mr. Kosch stated that there is access is not allowed to guests renting a unit privately.

Ms. Laurie Hughett asked Mr. Kosch if they retained employees that worked for the former owner of the resort, Joe Hook.

Attorney Klein stated that it is irrelevant whether an employee worked for the former owner or not.

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Village Engineer Kevin Heitz was sworn in.

Engineer Heitz asked Mr. Kosch about the additional 18% fee charged to the unit owners if they rent their property through the rental pool.

Mr. Kosch stated that the fee applies only if the unit has been rented through a 3rd party because that is what is charged to the resort.

Chairman Guttilla asked if there was anyone else present that would like to speak in favor of the propose Ordinance. There was no one, so Chairman Guttilla asked for a Motion to take a brief recess.

A short recess was taken at 8:00 pm. Motioned by Member Brown, seconded by Member Hamilton.

All in Favor

Motion Carried

The meeting was reconvened at 8:13 pm. Motioned by Member Hamilton, seconded by Member Brown.

All in Favor

Motion Carried

Zoning Enforcement Officer, Curt Spayer was sworn in.

Mr. Spayer asked if the C2 zoning district was contiguous to a residential district as in the area south of the I & M Canal, would a Special Use be necessary for someone requesting to operate a business as a short-term rental.

Attorney Klein stated that Spayer raised a good point.

Chairman Guttilla then asked if there was anyone present that would like to speak in opposition of the proposed Ordinance being considered.

Attorney Heidi Nelson, on behalf of her clients, spoke in opposition of the proposed Ordinance.

Attorney Nelson submitted items as Exhibits being entered into the Public Hearing Record.

Attorney Nelson Exhibit #1 – List containing the names of clients being represented by Attorney Heidi Nelson.

Attorney Nelson Exhibit #2 – Addendum to Agenda Appearance Request Form submitted by clients represented by Attorney Heidi Nelson.

Attorney Nelson Exhibit #3 – Exhibits as follows:

- a. Letter from Grand Bear Resort General Manager
- b. Letter from Village President Stewart to Mr. Walter Kosch dated November 18, 2019.
- c. Letter to Unit Owners from Mr. Jeffrey D. Mona, A.R.M, LLC (Grand Bear Resort Receivership Manager)
- d. Miscellaneous documents including: Fannie Mae documents and documents received from LaSalle County Recorder.

Attorney Nelson Exhibit #4 – Letter from Attorney Heidi Nelson to Village of Utica Board of Trustees dated January 27, 2020.

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Attorney Nelson then stated that she would like to request that the villas and cabins privately owned at the Grand Bear Resort P.U.D. and located in zoning district R3 be added to the proposed Ordinance to allow short-term rentals.

The rental pool agreement proposed by Grand Bear Resort is in violation of Fannie Mae. There was not a rental pool available for many years as the resort went through financial issues and bankruptcy. Many of the units have been upgraded and don't match anymore so those units are able to be rented through the rental pool. The unit owners purchased their property but were not informed that they would need to participate in the rental pool in order to rent their privately owned property.

Attorney Nelson then stated that her clients would like to obtain a license from the Village of Utica to be able to operate and rent out their properties. They would operate with security, a single website to rent the units from, collect and remit taxes and screen renters.

Member Munson asked Attorney Nelson how many meetings her clients have had with the new owners of Grand Bear Resort.

Attorney Nelson that Grand Bear Resort currently has the only license from the Village to be able to operate so they have leverage in the conversation.

Member Gift asked if Attorney Nelson represents the HOA.

Attorney Nelson answered, "no."

Member Gift asked Attorney Nelson if her clients are part of a group and if so, what is the name of the group?

Attorney Nelson stated that there are 30 clients that have come together but they do not have a formal group name.

Chairman Guttilla then stated that everyone understands that there is a lot of confusion and it is a complicated situation, however the Planning Commission is not in the position to make any decisions on what can happen between Grand Bear Resort and the HOA, or the owners that are a part of that HOA.

Chairman Guttilla then asked Attorney Nelson if there has been any negotiation with the new resort owners.

Attorney Nelson stated that her clients were waiting to see if the Village would add their zoning district to the proposed Ordinance.

Member Gift suggested that the unit owners negotiate with the owners of the resort.

Chairman Guttilla agreed and stated that although there is some sensitivity about the situation, the Planning Commission is not in a position to negotiate the matter.

Ms. Kerry Reigner, speaking to Attorney Nelson, stated that when she bought her property in 2015, she was told about the rental pool. If someone doesn't want to participate in the rental pool, then they shouldn't rent their property at all. The private rentals are being rented for only \$99 per night, and that isn't helping the situation because there are so many differences in what people are seeing the units be rented for. There is no consistency.

Attorney Nelson stated that she does not deal with the financial aspects of the situation.

Mr. Tyler Tomczak was sworn in to provide Testimony.

Mr. Tomczak stated that according to Attorney Nelson Exhibit #3, Fannie Mae Documents, not allowing the unit owners to rent their private property violates lending agreements

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Member Zens asked Mr. Tomczak to clarify his statement.

Mr. Tomczak stated that the Fannie Mae documents indicate that the unit owners do not have to go through a rental pool to be able to rent out their private property. The proposed Ordinance, by omitting the R3 zoning district, would force the owners to have to go through the rental pool to rent out their units, which is a violation of Fannie Mae.

Chairman Guttilla stated that property owners have a choice about participating in the rental pool. If they choose not to participate in the rental pool, instead they can choose to rent out their unit for a minimum of 30 days, which is allowed by Village Ordinance, or they can also choose not to rent out the unit.

Attorney Nelson requested that R3 zoning be added to the proposed Ordinance to allow the villa and cabin owners to have an option to rent out their units without having to go through the rental pool.

Mr. Tomczak stated that as a result of everything that has taken place at the resort, his family has suffered. The value of their property has decreased significantly since it was purchased in 2005. They need an option to rent out their property without going through the rental pool.

Chairman Guttilla stated that the Planning Commission understands that there have been some challenges and some bad economic conditions that have surrounded the resort in the past, however this meeting is not being held to address that subject. "The current rental pool agreement being proposed by the owners of the resort is not something that the Planning Commission can discuss or change; we are here to discuss a proposed Ordinance to regulate short-term rentals in the Village."

Attorney Klein then reminded everyone that the Village has the right to regulate short-term rentals or to not allow them at all. This is not a Hearing about the rental pool agreement between Grand Bear Resort and the homeowners.

Member Munson stated that maybe the Planning Commission should recommend to the Board that the Village should eliminate short-term rentals altogether.

Ms. Jill Ohlendorf then stated that she purchased her property in December 2018. At that time, she did her due diligence before making the purchase. She worked with Starved Rock Realty and was able to obtain a copy of the bylaws and covenants. In section 10-22 the documents states that the owner shall not be prohibited to renting the unit. Ms. Ohlendorf stated that she invested \$45,000 into renovations and now she would like to obtain a separate license to be able to privately rent her unit.

Ms. Reigner asked Ms. Ohlendorf if she owns a unit at another resort.

Ms. Ohlendorf answered, "no."

Ms. Ohlendorf stated that because she made renovations to upgrade her unit, that may be held against her now because it does not match other units and the standards set forth in the rental pool agreement. Ms. Ohlendorf then stated that she cares about her unit and wants only the best renters in order to make sure that it stays nice.

Chairman Guttilla asked Ms. Ohlendorf if she had spoken to the new owners to request that they work with her to accommodate the changes she has made so that she could be part of the rental pool.

Ms. Ohlendorf stated that the owners don't care about her unit as much as she does.

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Attorney Nelson stated that the rental pool agreement gives the resort exclusive rights to rent out the unit.

Mr. Fill stated that the rental pool agreement does work with the unit owners; it allows up to 5 stays per year at no charge.

Shyama Ramaiya asked Ms. Ohlendorf if Airbnb is a good way to be able to rent a unit when traveling.
Ms. Ohlendorf stated that Airbnb provides people with a quick, modern way to rent.

Member Zens asked how keys are provided to renters when they go through a website such as Airbnb.
Ms. Ohlendorf answered that there is a smart lock on the unit.

Member Zens then stated that if he and his wife were traveling, there would only be two people in a unit, however if seven people were going to use the rental, no one would know that seven people had arrived if not vetting in person.
Ms. Ohlendorf stated that there are devices that alert the owner of a large number of people.
Member Zens stated that not everyone takes those measures to make sure how many people are showing up at the unit. It makes it hard to vet the people renting.

Attorney Nelson stated that her clients are proposing a point of contact; one person that would take care of everything including vetting the renters that arrive.
Attorney Nelson referred everyone to Exhibit #4 – a letter from Attorney Heidi Nelson to Village of Utica Board of Trustees dated January 27, 2020.
Attorney Klein read the letter to everyone.

Mr. Ivan Acosta was sworn in to provide Testimony in opposition of the proposed Ordinance.

Mr. Acosta stated that if the R3 zoning is not added to the proposed Ordinance the only alternative to renting out his property would be to enter the rental pool. Mr. Acosta stated that he believes no one can care for hi property better than he can. He agreed with the proposed Ordinance but would like R3 zoning to be added to provide another option to property owners.

Chairman Guttilla asked Mr. Acosta if the Hotel Occupancy Tax has been paid when he has rented out his property.
Mr. Acosta answered, “not yet, but I would like to.”

Member Gift asked Mr. Acosta about the rate that he charges for rental of his unit.
Mr. Acosta answered, “\$180 per night in the summer, and \$120 - \$140 per night in the off-season.”

Mr. Chris Flood was sworn in to provide Testimony in opposition of the proposed Ordinance.

Mr. Flood stated that he fears that the occupancy rate for his unit will drop if he enters the rental pool agreement. He also stated that he believes Grand Bear Resort would not treat his property with the same enthusiasm as he would. He would like to keep his investment and is asking for the fairness of additional alternatives to rent the property.

At 9:26 pm, it was motioned by Member Hamilton, seconded by Member Zens to close the Public Hearing
6 Yes
Motion Carried

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Public Hearing
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MINUTES

At 9:35 pm, it was motioned by Member Brown, seconded by Member Zens to take a brief recess.
All in Favor
Motion Carried

At 9:39 pm, it was motioned by Member Zens, seconded by Member Hamilton to reconvene the meeting.
All in Favor
Motion Carried

Chairman Guttilla asked the Planning Commission Members if anyone would like to make a Motion. It was then motioned by Member Hamilton, seconded by Member Chapman to recommend approval of the Ordinance as presented.

The Planning Commission discussed the Motion.

Member Zens asked if there would be penalties in the Ordinance for not complying with regulations.

Attorney Klein answered that there is a penalty section included in the Ordinance that mirrors the Hotel Ordinance.

Member Zens asked if there is a penalty for under-age drinking parties being held at a short-term rental property, such as a 'three strikes, you're out' penalty.

Attorney Klein stated that Chief of Police Damron has had input on the proposed Ordinance. Chief Damron requested the ability to revoke a rental license if he finds the issue to be serious.

Member Munson then asked if the proposed Ordinance would omit all residential zoning completely.

Attorney Klein stated that the Ordinance would allow C1, C2 and C3 with approval by the Village President; it would also allow RR when the property contains at least five acres; R1 and R2 would be allowed with approval by the Village President if contiguous to commercial zoning district.

Chairman Guttilla suggested a limit to the number allowed in the commercial zoning districts.

Member Gift suggested that all residential be eliminated and allowing only those properties in commercial districts. He stated that it would be better to expand later if it is needed, than to try to contract.

Village Engineer Heitz stated that a property owner could seek to rezone the property; Attorney Klein agreed.

Member Munson stated that he does not believe the Village should be involved with the differences happening at Grand Bear between the resort and the homeowners.

Member Brown agreed and stated that the Ordinance does not involve Grand Bear.

Member Gift stated that the proposed Ordinance would eliminate R3, thereby eliminating all of the properties located at the resort. Member Gift also stated that he hopes that the two groups would talk to each other to work to resolve their differences.

Chairman Guttilla agreed and stated that he believes that both parties could benefit from trying to work things out.

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MINUTES

The Motion was then amended by member Hamilton, seconded by member Brown. It was motioned to recommend approval of the Ordinance ‘except to delete the section E to eliminate all residential zoning from the Ordinance and to not allow contiguous R1 and R2 properties’

5 Yes

1 No (Zens)

Motion Carried

With no additional business, it was motioned by Member Hamilton, seconded by Member to adjourn the meeting at 9:55 pm.

All in Favor

Motion Carried

Respectfully submitted,

Laurie A. Gbur
Village Clerk