

MINUTES
City of Newport
Short-Term Rental Implementation Work Group Meeting
City Hall, Council Chambers by Video Meeting
Thursday, January 7, 2021

Work Group Members Present by Video: Cynthia Jacobi, Dietmar Goebel, Spencer Nebel, Bill Branigan, John Rogers, Sandra Roumagoux, and Jamie Michel.

City Staff Present by Video: Community Development Director (CDD), Derrick Tokos; Police Chief, Jason Malloy; Community Service Officer, Jim Folmar; and Executive Assistant, Sherri Marineau.

Public Members Present by Video: Traci McDowall.

1. **Call to Order.** The meeting was called to order at 3:04 p.m.
2. **Review and Amend Agenda as Needed.** None were heard.
3. **Approval of Minutes.** Motion was made by Bill Branigan, seconded by Jamie Michel to approve the September 28, 2020 Short-Term Rental Implementation Work Group meeting minutes as written. The motion carried unanimously in a voice vote.
4. **Public Comment.** Traci McDowall, Attorney for Lauri Hines, addressed the Work Group and noted she was present to answer questions concerning the letter she submitted to them. Tokos noted this discussion would be added to the enforcement agenda item 5C.
5. **Committee Discussion Items.**
 - A. **Update on Licensed Short-Term Rentals, Cap, and Waitlist.** Tokos reviewed the memo and the current status of short-term rental (STR) licenses. He noted there had been a few license openings. Tokos explained this was time intensive and they would be looking to offer open spots once a year after renewals were done every fall. Nebel asked what the original number of licenses were, in and out of the permitted zone, before the updates to the code were done. Tokos didn't have the exact number but thought it was somewhere between 220 to 240. He reminded that this was a period of time where people filed applications before the new rules fell away. Nebel requested they track what was happening over time at the next meetings.

Roumagoux asked what the definition of a homeshare was. Tokos explained there were three types of rentals. A VRD was when the entire unit was rented, B&Bs had a full time resident that provided food service, and a homeshare was where the property owner resided there and rented up to two rooms. Roumagoux asked if homeshares had to follow the same rules as VRDs. Tokos explained that VRDs were subject to stricter standards and limited to a geographic zone called the overlay zone. Preexisting to this, VRDs that had licenses and were nonconforming and outside of the overlay zone would go away when they were sold. Homeshares were not subject to geographic limits or the cap on the number of licenses. Tokos also noted that VRDs were subject to spacing standards, but homeshares and B&Bs weren't.

- B. **Limitations on Regulating Accessory Dwelling Units.** Tokos acknowledged the comments submitted by Carla Perry, Cheryl Connell and Mona Linstromberg. He noted their concerns did include the Hines property. As far as the regulatory issue, the legislature put in limitations and mandates as it related to Accessory Dwelling Units (ADUs). ADUs were a small secondary dwelling unit on a property. Typically ADUs were less than 800 square feet in size. They could be attached to the principal dwelling or detached. In the past when they put ADU regulations in place, the Planning Commission felt it important to put in provisions that at least one unit was owner occupied and required one parking space when an ADU was built, in addition to the off-street parking required for the principal dwelling. Legislature in 2019 said the owner occupancy of the principal dwelling unit and the off-street parking requirement for ADUs wasn't reasonable and they couldn't do anymore, expect if the

ADU was used for STR purposes. If the ADU was used for STR purposes you could require that unit to have additional off-street parking and require the ADU to be owner occupied. This was in respect to ADUs, not the principal dwellings. Tokos explained they could amend the code so that the principal dwelling unit be owner occupied if the ADU was being used for vacation rental occupancy. However, they couldn't do the opposite and require owner occupancy of an ADU if the ADU wasn't being used for vacation rental purposes.

Tokos reviewed the DLCD Frequently Asked Questions that were put out for these bills and how they applied to ADUs. The question was if an ADU was used for vacation occupancy, was there any need to do anything further. The code that was in place already required off-street parking for ADUs and the primary dwelling. The question was if ADUs should have the requirement that it be owner occupied if it was a vacation unit. Tokos noted that ADUs were typically small by definition, and 800 square feet or less. Tokos noted it was unclear why they would want to do this because it would in essence make it a homeshare, which was also addressed under the code. He didn't see this as a code issue or something that needed to be addressed by code because it was already addressed quite explicitly in the short-term rental ordinance that dealt with vacation occupancy. Tokos thought, with respect to Perry's thoughts to have an owner occupancy of an ADU for STRs to provide certain oversight, they couldn't get there given how the statute was written.

- C. **Short-Term Rental Enforcement Update.** Tokos reviewed his memorandum. Michel asked how the city felt about the fact that they were getting calls that should be going to the property managers and asked if they were spending extra money to take these calls. Tokos explained it was a flat fee for the service and the number of calls didn't impact the rate. Michel noted the complaints were by five people and were for five specific STRs. She felt they needed to address the neighbor problems and they would benefit from a neighbor mediation program. Michel thought there would be a more effective way to help neighbors mediate concerns with their problems. She hoped they could find a creative and effective way to address these citizens and their concerns. Jacobi didn't agree with Michel. She thought the citizens who complained were in a different situation in their neighborhood. Jacobi noted almost all of these citizens submitted complaints lived in Newport and one lived there halftime. She hoped these issues could be ironed out and thought there were a couple of trouble areas.

Branigan asked for Traci McDowall to speak and walk them through the letter she sent to the City. McDowall addressed the Work Group and explained that she pulled public records to find out about the complaints, who was doing them, and how often they were filing unactionable complaints. The STR at 1330 NW Spring St had received 17 complaints, all of which were filed by Carla Perry and Elaine Karnes. McDowall noted that nobody else submitted complaints and she felt these two complainants had been very vocal in opposition to STRs in the city. She felt this was taking time away from the Community Service Officer (CSO) and the city to investigate, and there was rarely anything done about it. McDowall felt this was an abuse of the system for what it was intended for and there was no recourse for property owners. There had been no direct contact with owner and property manager and they were using the hotline to type out a complaint without any recourse. McDowall didn't think this was operating the way it was intended. Branigan asked if her client had asked for mediation. McDowall thought mediation was a great idea. She reported that she practiced landlord tenant law, and when a landlord wanted to file an eviction action in court, the local courts required that for the first hearing, the parties were sent to mediation. McDowall believed in the program and thought her clients were receptive to this. She felt they were doing everything they could, but the complaints continued to come in and most of them were unactionable.

Jacobi asked which items were actionable in the complaints. McDowall didn't have that information in front of her to reference but did note that when she was going through them she was shocked at the amount that was unactionable. Jacobi asked if there was a type of complaint that was unactionable. McDowall reported one example was the advertising of the rental. There were multiple platforms that the STR was advertised on and a third party vendor was used to be efficient. The problem was that the third party vendor didn't always connect with the different advertisers. When a change was made to one advertisement, it sometimes didn't always happen on all the other advertisers. When the changes were made they learned it took a lot of effort to go back and forth with CSO Folmar to make sure it was fixed. This was an example where they found a correction and it was fixed. Michel noted that the software use to advertise was a channel manager and talked to all the online travel agents. Sometimes there were other companies that would skim on the advertising and there wasn't any way to monitor

this. When they made changes on occupancy, there was almost always a glitch where it wasn't picked up in other advertisements. Michel thought this backed up McDowall's claims.

Goebel asked McDowall what her clients were asking the Work Group to do. McDowall wanted the Work Group to address the process that was created for complaints to be filed, and the issue of there not being anything a property owner could do when there was excessive complaints. Her clients were investigating what legal options they had because there was no recourse for the owners when the complaints were excessive. Goebel questioned if the Work Group should continue discussing this if there was potential for litigation. McDowall thought it would be good to have open communications and thought possible solutions was the way to go. Her clients were frustrated on how this was going. Goebel noted his understanding was that law enforcement in place was responding to a complaint, recording them, and making them available to the public. Other than that, he didn't know that law enforcement was doing anything to keep her clients from renting out their properties. McDowall clarified that she wasn't saying law enforcement was doing anything wrong, she was saying there was no recourse for property owners when multiple unactionable complaints were being made. Law enforcement was contacting the property owner to resolve an issue but there was no desire by the complainant to resolve the issue because they just wanted to stir the pot. Goebel thought they should work with staff to come up with a solution Roumagoux asked if the owners were residents of Newport. McDowall confirmed they were residents of Lincoln County.

Michel asked if there was any mediation available with the City for complaints that become unfounded. She noted the County was looking into putting in a neighbor to neighbor mediation program and asked if the city had any experience with this. Tokos thought this would be good question on if the Work Group wanted to bring up any information relative to this and if it would fit with them beginning to form the initial recommendation to the City Council. Michel asked that this be added to that list. Tokos noted he would add as this as a follow up item to bring back to the group. Goebel was concerned that this would mean the city would be the enforcer and the mediator. Tokos explained there would be a third party mediator. Nebel reported there wasn't a regular mediation program at the city and they would have to look at where it would come into play. The city did work with neighbors on various issues through the CSOs. In this case, there could be a benefit to having a mediator to help with the issues and concerns of the neighbors and owners. Michel thought this could serve across the city not just with STRs. Goebel asked who the mediator would work for and how they would get paid. McDowall explained this could work in many ways. She believed the state court mediators either volunteered or were paid through the state court. In other types of mediation, the cost was shared with the parties involved. Michel noted that when it started costing money there would be some peace. She wasn't just thinking about STRs but other issues the city could get involved in. Nebel noted there were unhappy people on this issue and the process that was laid out wasn't working in that fashion. He thought mediation in this instance would be a good idea and this might be the trial basis to see if it was worth pursuing on a more organized level going forward. They would talk about this on a staff level about the more immediate issues on a trial basis.

CSO Folmar noted an issue he was having with the online reporting not getting filtered through LodgingRevs and going straight to the Police Department (PD). Many times the STR owner only heard about the complaint through the CSO. This took out the owner and manager resolving the issues first. Folmar questioned how they could resolve this. He noted the bulk of the issues that were unresolved were because of this. This became a bigger issue down the line because there was no contact with owners or the emergency contact until a later date when the CSOs got in touch with the owner to resolve the issues. Michel suggested the online complaint form have in the hotline recording and show a question online in bold asking if they had contacted the owner first. Folmar reported that if they call the hotline number they were getting in touch with the LodgingRevs call center. They would field the call and contact the emergency contact to resolve. If this didn't get through, it then went to the CSOs. This only happened when someone used the hotline to call in. Online complaints took this element out of the loop and it went straight to the CSO. Tokos noted that LodgingRevs' platform did not support linking this through. He noted that on the same page of the incident form on the city's website was a link to a list of all licensed STRs with their contact information. When someone was filing a complaint online they had access to this contact information as an avenue. The code that was in effect prior to this version required that those that filed incidents worked through the manager of the units. Through the code update there was a strong desire by the group that this provision be changed, and they did not want to have to work through the management. They felt that units should be operating consistent with their licenses and they wanted the ability to raise the issue

directly with the city and then the city would enforce, as opposed to them having to work with the management. Tokos noted they could go back and make some hybrid changes, but he wanted to make it clear how this issued evolved. He also wanted to make it clear that the specific individuals who filed the complaint that McDowall was referencing came through McDowall's public records requests and wasn't part of the report that Tokos provided. He didn't not include that level of detail in the report to protect those who had lodged incidents and to protect the property owners who had incidents filed against their property. This information was obtained through a public record request if someone wanted specific details of that nature.

Tokos noted that McDowall referenced a pending citation with the city and explained the Work Group wasn't set up to adjudicate this. He noted the payments that McDowall's clients paid were for utilities bills and different than paying for license renewals. The City didn't have record of payments for the business license. McDowall would touch base with Tokos to follow up on this.

Michel noted that several of the original members on the Short-Term Rental Advisory Committee were the same citizens making complaints and only using the online system to lodge complaints. It seemed to her that the same citizens pushed the group to set up a system the way it was set up and were now choosing to only going through the Police Department with not apparent intention to try and resolve the issues with their neighbors. She didn't discount anyone's issues. Michel wanted the Work Group to come up with ways to streamline this so it worked. She felt it was the same citizens who were drilling this until the whole program was gone. Michel felt as a committee it was their obligation to look into this and realize they weren't there yet.

Branigan asked if what they were talking about here was the exception. The overall purpose of the program was that there would be sporadic complaints against random STRs and this would be a way to contact the owners. He didn't know that they needed to fix this as much as the exception they were talking about. Folmar thought that if there was a link in the online complaint form to see what the emergency contact information for the STRs was, the complainant could go ahead and make the contact. If this was in place, the people who were reporting online should take the extra step to contact the emergency contact so they could resolve the issues. Goebel thought it sounded like staff should come back with recommendations on mediation and what this would look like. Tokos noted this was the plan, along with providing other recommendations as well. They would take a look and see if there were things other jurisdictions were doing on mediation issues.

McDowall asked if there was way to pay endorsement and business license fees online at that time. Tokos reported there wasn't at that time and they were working on automating this. Nebel noted the Council voted to authorize a new bill paying system and the process to implement the new system would be underway in the next few months. McDowall suggested it be clear to business owners that they can't use Express Pay to pay fees online because her client thought they were doing the right thing by paying online. Roumagoux added that she was a business owner and she paid by check for her business license. Michel noted most people didn't have checks currently and the city had to keep up with the program to make it electronic. Tokos noted that once it was automated it would give the city the option to explore the auditing more. (3:15)

Folmar gave an update on the parking complaints on Agate Way noting a first strike letter was sent to the homeowner on the basis that LodgingRevs attempted to contact them six times without getting a response. They now had a first strike. Michel asked if everything else was running smoothly with the program. Folmar confirmed they were pretty much running with a 100 percent compliance.

- D. Follow-up on Dog Attack Involving Pet Owned by STR Guest.** Folmar reported he had nothing to do with the investigation and Malloy would be the person to answer the questions, but he had left the meeting already.

Tokos asked Jacobi if the follow up information addressed the issue. Jacobi wanted to clarification the City of Newport's lease law and who was responsible when there was an outside visitor staying in a STR and there was a dog problem such as this incident. She also asked what happened when there was a vicious dog report and the dog was brought back to its hometown. Did the police department or animal control in other towns get contacted to let them know the dog lived there. Jacobi didn't think there was good enough follow up there. Nebel reported that in Chief Malloy's communications he indicated that animal bites or attacks were handled by Animal Control

and not by the Police Department. The fact that this occurred in a STR wasn't relevant and didn't fall under the STR ordinance. Newport had a leash law and the issue was turned over to animal control who handled the situation. Goebel didn't think there as a political way to resolve this and felt it wasn't a Council or committee process, but a civil process in the courts. Nebel noted this was typically handled by animal control and why there wasn't much information. They could follow up on this more and asked Jacobi to provide what she wanted to know. Jacobi noted this happened at the Spring Street STR. Nebel reminded this had no merit on the incident. Jacobi just thought it didn't seem like it had been resolved. A discussion ensued regarding what the PD would enforce when it came to these issues. Branigan suggested Jacobi contact the Sherriff's Office because they dealt with these issues and did follow up.

- E. **STR Ordinance Implementation Work Group Recommendations (Preliminary Discussion)**. Tokos explained this agenda item was the beginning of a discussion on the framework of the recommendation to the City Council. He noted there was one recommendation to establish a standing STR Committee, and another to look at options where there were neighbors with ongoing complaints on a regular basis.

Tokos asked if there was other information he should bring back to start to frame the Work Group's recommendations. Goebel thought the standing committee was good idea and asked if Tokos was looking at the structure of what that committee would look like. Tokos explained he would be talking about this to weigh what they could support with the staff they had and what the ongoing roll would be. Michel wanted to look at the timeframe they were giving a person to decide when they are given an open space for a license. Tokos explained they didn't have a year to ponder if they wanted to pursue a license. They were given a certain number of days to determine if they wanted to pursue a license or not. This was a piece they hadn't really flushed out in detail with the original ordinance, so they have had to build it up as they worked through it. Michel thought they should discuss where they were and what they wanted to pursue on this. She didn't think there needed to be long timeframes and it tied up a space that wasn't going to be used. Tokos reported that one issue that would sometimes hold up the process was when they dealt with building safety issues. He noted the city had been pretty flexible in this regard. Michel asked for the Work Group to look at things they could tighten up in the ordinance, such as this.

Roumagoux thought that the COVID pandemic was an important thing to consider. She felt that complaints about masks were important and wanted the Work Group to consider this. Tokos noted the ordinance has been done before the pandemic hit. The ordinance was structured such that our ability to cite was limited to a violation under the ordinance. The emergency orders for COVID pandemic wouldn't generate a strike because it wasn't in the ordinance. If the Work Group wanted to see some language that if there was some sort of declaration that can be drawn under that ordinance at the time the declaration was made, they could see what they could do in that regards. Roumagoux was thinking this would fall under social gatherings. Nebel noted that social gatherings were set at a maximum of 10 and they had a handle on this because there were only a few STRs that were allowed to have a maximum occupancy of more than 10 at a time. Most couldn't have social gatherings in the STR, and if they did have a gathering that was over their occupancy it would be a violation that was strikable. Gebel cautioned about adding mask and social distancing in the ordinance. Michel reminded that the city and states have ordinances that superseded this and didn't have anything to do with STRs. She didn't think this was a STR discussion.

Branigan thought they should think about having the ongoing STR Committee get together with other jurisdictions to understand what the issues were in each of their areas. Roumagoux liked the idea and suggested that one of the quarterly meetings be with the county and other cities. Michel reminded the Work Group that she was a founder of a short-term rental advocacy group called Via Oregon. They had meetings where they invited county supervisors and would love to invite representatives from this group, the City Manager, or the City Council to bring them up to date on what was going on. She reported there was a petition for a ballot measure that would ultimately shut down all short-term rental use over a five year period if it passed. Michel had a lot of knowledge of what was going on at the central coast, and the preemptive legislation that was happening on the State level. She invited the Work Group to speak or have her speak on these things.

Tokos asked for other thoughts on topic areas to flush out. Rogers wanted to look at the overall administration

costs of the STR program and see how it impacted the general fund. This got to the point about if there was sufficient revenues coming in to support the program. Jacobi noted that when looking at implementing LodgingRevs they increased fees to cover the costs. Tokos confirmed this was correct. Nebel thought they would have financial data they could present to the Work Group.

6. **Future Meeting Schedule.** No discussion was heard.
7. **Public Comment.** None were heard.
8. **Adjournment.** The meeting adjourned at 4:37 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant