

MINUTES
City of Newport
Short-Term Rental Implementation Work Group Meeting
City Hall, Conference Room A
Wednesday, February 26, 2020

AC Members Present: Cynthia Jacobi, Bill Posner, Dietmar Goebel, Spencer Nebel, and Bill Branigan.

AC Members Absent: Jamie Michel, and John Rogers (*all excused*).

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

Public Members Present: Carla Perry, Mona Linstromberg, and Cheryl Connell.

1. **Call to Order**. The meeting was called to order at 10:05 a.m.
2. **Review and Amend Agenda as Needed**. Introductions were done. Tokos asked for amendments to the agenda. Spencer Nebel requested an addition to Agenda Item 7 to discuss communications with the Clifford family. Tokos requested that the current Agenda Item 9 be carried over to the next meeting since John Rogers was not present. In its place, they would add a discussion on the online payment of room taxes and business licenses.
3. **Approval of Minutes**. Tokos asked for approval of minutes. Motion was made by Nebel, seconded by Jacobi to approve the minutes as written. All approved.
4. **Public Comment**. Tokos opened up the meeting for public comment. None were heard at that time.
5. **Update on Licensed Short-Term Rentals, Cap, and Waitlist**. Tokos reviewed the staff memorandum noting the current number of licensed Short-Term Rentals (STRs). He explained what active and inactive STR licenses meant. He reported that the total number of residential units inside of the overlay zone equated to about 2,130 dwellings, which was 37 percent of the City's housing. The 176 unit vacation rental cap amounted to a little over eight percent of the housing in the overlay zone.

Branigan asked for clarification on the status of the available three STR licenses. Tokos explained that the City would be working on notifying people on the waitlist that there was an open spot for them. Staff would review if they met the standards and qualified for a license. If they didn't, they would be skipped and staff would move on to the next person on the waitlist. If the person was skipped, they would be kept on the waitlist and the City would provide communication to them to inform them on how they didn't meet the rules. Malloy asked if applicant would have a specific time to submit their applications. Tokos said there would be an administrative decision made to determine how long the process would be. Nebel thought an internal policy should be in place to know how it would work. Tokos explained there would be a two-step process which included a time frame on when the applicant would have to submit, and then another deadline on when they needed to complete the application process. The City would document the notices that were sent to those who were skipped in a formal letter.

6. **24/7 Hotline Implementation**. Tokos reviewed the staff memorandum noting the correspondence from LodgingRevs that related to how their operators interfaced with police dispatch and which enhancements could be made to centralize the incident/complaint database. They agreed to do some changes to the report features but the changes weren't completed yet. Tokos thought this would be done in a couple of weeks.

Branigan asked if the Excel export report worked. Tokos said it wasn't working yet but was what would be fixed. Goebel asked how the City identified illegal STRs that LodgingRevs didn't pick up. Folmar said if the owners were renting without advertising, there was no way to catch it unless someone reported it. He gave an overview on LodgingRevs' process to find illegal STRs. Folmar noted that to his knowledge there weren't many of these

types of rentals, and he had caught one or two through Craigslist so far. Folmar noted that LodgingRevs was approximately 98 percent correct in identifying illegal rentals.

Posner asked for clarification on the response LodgingRevs gave on Request 4. Tokos explained that meant that automatic emails after-hours to a different city emails address wasn't possible. Posner thought this would be simple to do and questioned why they wouldn't do it. Tokos would get additional information from LodgingRevs on why they couldn't. He guessed that they would be able to design a system to do this and would push for this.

Jacobi asked if there was a way for citizens to know if their complaint had been received. Tokos explained the when someone called in a complaint they would know. LodgingRevs wasn't prepared to do an online report. Folmar was currently doing the feedback but it wasn't immediate.

Tokos reviewed the hotline script and explained that it there wasn't text included on how LodgingRevs would send the complaint over to dispatch. He noted that they were happy to add some language. Malloy felt comfortable with working on the script to say that if there was loud noise and disturbance, or parking impediment, LodgingRevs would automatically transfer the call to police dispatch. Posner asked what would happen to the original record of the first complaint. Tokos explained it would be logged and say it was referred to dispatch.

7. **STR Ordinance Implementation Issues.** Tokos reviewed his staff memorandum. He noted the Nye Sands Home Owner's Association (HOA) submitted notification about the work being done at the condos. This work meant that the licensed units in the complex wouldn't be able to meet the 30 day use requirement because of the nature of the ongoing work. Owners had concerns they would lose their license due to no fault of their own. Tokos asked the Work Group to consider this and give feedback on making a targeted change to the code that would say there was an outlet for consideration the owners could provide evidence that they couldn't use a unit for an extended period of time.

Goebel thought this would be reasonable. Posner asked if the work was being done by the condo owners or the HOA. Tokos explained the work was a major renovation through the HOA and the owners didn't have control over the repairs. Branigan asked if these types of exceptions could come to the Work Group for a determination instead of going to staff. Tokos explained that what he was looking for was a nod from the Work Group to say they were okay with making a reasonable small change to the code. Nebel thought they should run it by legal first to see the best way to handle it. Tokos thought it was important to get a change to the code done before the STR license renewal period was up so that people didn't lose their licenses. Posner thought owners in these scenarios should have some way to address the issues. Goebel asked if someone tore down and rebuilt a STR, would this change apply. Tokos explained that they could include in the code some acknowledgement for some of these provisions as opposed to defaulting to a nonconforming use right. He explained that a tearing down and rebuilding a nonconforming STR would be an alteration of a nonconforming use which would go to the Planning Commission for approval. They would also have to go through this process if they were adding a bedroom to a nonconforming STR. Tokos thought that the City might start to see more applications for nonconforming use alterations and thought the Planning Commission would be hard pressed to grant these changes for units outside of the overlay zone. Goebel asked if someone had a license for a STR in their main dwelling, could they transfer the license to their Accessory Dwelling Unit. Tokos explained if the license was nonconforming, it would be an alteration to a nonconforming use and would go to the Planning Commission for approval. If the STR was in the overlay zone and was conforming to all of the new standards, they would be allowed to apply for a new license to add the bedroom without having to get approval from the Planning Commission.

Tokos started a discussion on Nebel's request to review the 24/7 hotline signs for B&Bs and home shares, and whether or not these types of STRs needed to have the signs posted at all times. Nebel explained that one of the B&B owners asked for a request that they not be required to post a 24/7 hotline sign because they were onsite at all times. Goebel noted that a licensed STR owner reported that their unit had been broken into since they put up a sign. The owner felt the signs advertised vacancy, making it a target. Goebel asked how this should be addressed. Tokos thought they needed to review the actual proof to see what was actually happening. Posner didn't have a concern because B&Bs were already required to post signs for their businesses. Nebel noted that the ordinance said that B&Bs needed to be signed as well all other STRs. Tokos reported that he could add it to the list of target changes, along with the concept of condominium buildings being required to only have one sign

per building instead of multiple signs on one building. Jacobi saw how signs wouldn't be as necessary on B&Bs as they would for STRs and home shares. She thought it should be added to a "think about it" list for the Work Group to consider later.

Tokos reported that there had been a few people who wanted STR licenses that the City couldn't help. He reviewed the additional agenda item concerning the Clifford's who purchased a previously licensed STR before the ordinance changed, but didn't come in to get their own license before the new ordinance was in place. When they did come in, it was determined they couldn't get a license and were placed on the waitlist. Nebel noted that they argued that when they bought the unit there was a license on the wall, they thought they were legal, and they never got a notice of renewal because it was sent to the old owner. Because of this, they felt they never had a chance to get a license. Tokos noted the Clifford's had the option to do a long-term rental at their unit. Goebel asked that the Clifford's be told they had the long-term rental option. Jacobi wasn't in favor of making an exception for them.

8. **Enforcement Update.** Folmar reviewed a list he handed out to the Work Group. This list showed the complaints that LodgingRevs received that were submitted either online or by phone, the date of the incident, the response dates, and how they were responded. He noted that there had been 30 complaints in five months, and all but one was closed.

Goebel asked for an update on the complaint for 1330 NW Spring Street. Folmar explained that he understood that the registered owners retained council and a hearing in municipal court would be scheduled where the owners would argue that the endorsement and business license were for the entire tax lot, which included the additional Accessory Dwelling Unit. Tokos walked the Work Group through the citation process and clarified that citations were issued for unlicensed rental units only. He explained that unlicensed STR owners would get an initial warning. If they didn't take down their ad, they would receive a citation with a monetary fine and a date for municipal court where they could make their case if it was a mistake. Tokos explained that in the case of the Spring Street property, they did not appear at court. When they didn't appear for court, a second citation was issued and a new court date was set. The owners then notified the court that they were retaining council and continued to rent the unit.

Tokos reported that there needed to be a discussion with the judge on how to handle the instances when people didn't appear. Malloy explained they didn't have any way to board up people's properties and there were no consequences through the municipal court. The circuit courts could issue judgments that could be monetary, civil or criminal. This was a timing issue and a more expensive process for the City. Malloy confirmed that at that moment, the Spring Street case was still in municipal court. He noted he would be meeting with Judge Pridgeon to discuss this in the following weeks. They needed to see the legality and get the City Council's direction for when a person didn't appear. Malloy explained that the municipal court judge didn't have any teeth. They needed to review how to go forward with citations adjudicated and get an injunction to enforce. A discussion ensued regarding the timeline for prosecuting cases. Malloy hoped to give an update from the judge to the Work Group at the next meeting.

Posner asked why one of the complaints on the list came in on October 21st but wasn't responded to until October 29th. Folmar explained that he was on vacation at that time and wasn't able to respond until he was back. Malloy said they were working with LodgingRevs to send email notification to Folmar immediately. The other CSO Ballentine would now be checking complaints on the days Folmar was off to address them as well. Goebel asked for an explanation on what "other" complaints were. Folmar explained that these were typically things such as when a renter couldn't get into the unit and LodgingRevs contacted the local contact to assist. Folmar noted that he would follow up with the complainants to see if there had been a response in an appropriate timeframe. Most of the feedback had been very positive about responses.

Tokos noted there would be a sit down conversation with the judge and there would be a follow up with the Work Group on what was determined.

9. **Online Room Tax Collections and Business License Update.** Murzynsky reported that they put the collections on hold because of glitches with the Caselle software. The thought was to start with collection on hotels first to

see how it worked out. There was also a discussion to do business license payments as well. Goebel asked why STR room taxes weren't included in these collections. Murzynsky explained that they would possibly add STRs but the logistics needed to be worked out. Tokos explained that LodgingRevs would be comparing the room tax payment data that the City shared with them to point out where the data was out of whack, and then report back what should have been paid. He noted the implementation of LodgingRevs's room tax estimates would be on hold until this was worked out. Goebel asked what would happen when there were discrepancies. Malloy said the transient room tax code provisions said that if there was any evidence of fraud there would be immediate cause for revocation and the matter would be deferred to the Police Department. He said they would keep issuing citations until this had been corrected. Nebel noted the audit provisions would be cleaned up to give clear authority. A discussion ensued regarding the glitches with the Caselle software, the anticipated start time to receive payments, and which types of payments would be allowed.

10. **Introductions of Advocates for Safe and Healthy VRD-Free Neighborhoods-Newport Priorities.** Tokos reviewed the list of priorities that were provided to the work group by the Advocates. He explained that the thought was to have staff provide feedback to the Work Group at the next meeting.

Cheryl Connell, Carla Perry and Mona Linstromberg addressed the Work Group. Connell explained that the list they presented included the most important points they wanted the Work Group to consider. She noted the first paragraph was based on their engagement with neighborhoods and various City departments. They had concerns on enforcement of the STR code in documented form. Connell requested the Work Group look at ways to comprehensively address the issues with STRs.

Connell explained that the group wanted the City to look at how they could make enforcement go fast by changing the culture of voluntary compliance to mandatory compliance. She thought that if the Work Group addressed these priorities they would go a long way to address concerns about how enforcement activity was really happening. Tokos noted the staff level response would be scheduled for further discussion at the next meeting. Posner asked what the group meant by requesting that issues were dealt with within an hour. Perry explained they wanted a compliance log from the system that showed a response within one hour. Nebel explained that the code said that the manager/owner had to respond within an hour. He asked if LodgingRevs was able to show that this was done. Tokos explained there was no way for them to document when there was a response. Nebel wanted to know if there was a mechanism built into LodgingRevs to allow them to be notified by the contact when they had responded. A discussion ensued on how contacts acknowledged that they responded to complaints, and options to set up a way for contacts to notify LodgingRevs that they had responded. Tokos noted this would be added as an agenda item to the next meeting.

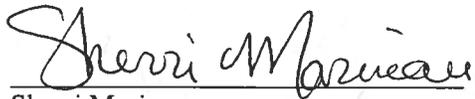
11. **Future Meeting Schedule.** Tokos reported that they were working on a resolution that called for the Work Group to provide recommendations to the City Council by September. He asked if the Work Group wanted to change the schedule to meet every other month to implement the changes. This would mean they would meet around April 20th, June 22nd, Aug 17th, and then have two meetings in September. This would allow the Work Group to gather their thoughts and give a recommendation to the City Council. The Work Group was in general agreement to make the change. Tokos noted he would send a poll to the Work Group to get the meeting dates set. He would try to pin down all five dates for the meetings.
12. **Public Comment.** Tokos opened up the meeting for public comments. Carla Perry asked if it was possible to add a question on the STR application to ask if their property was on a septic system in order to know if the house could handle the influx on their system for a STR. Perry also asked that there be a statement added to the application that said that the information the applicant was providing was correct and truthful so applicants knew their license could be revoked if the information wasn't truthful. She also pointed out that there typically was a sizeable fee on large credit card payments and asked the City to consider this when they decided if they would take credit card payments for room taxes. Perry asked if a violator could be made to pay for the cost of the city's legal expenses if the matter went to the circuit court. She felt this would make people hesitate to not take care of the citation before they went to circuit court.

Mona Linstromberg said she felt a disconnect to the implementation and fine changes. She wanted a resolution on how this was pursued. She hoped to see a resolution in the future but could see the rationale that had been used.

Tokos noted that a draft copy of this meeting's minutes would be provided to the City Council as part of their next meeting before the Work Group would have a chance to see them. He asked for their thoughts on sharing them with the Council. The Work Group was in general agreement to allow Tokos to share the draft minutes with the City Council.

13. **Adjournment.** The meeting adjourned at 11:54 a.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant