

MINUTES
City of Newport
Short-Term Rental Implementation Work Group Meeting
City Hall, Council Chambers by Video Meeting
Monday, June 8, 2020

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

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

1. **Call to Order.** The meeting was called to order at 12:40 p.m.
2. **Review and Amend Agenda as Needed.** None were heard.
3. **Approval of Minutes.** Tokos asked for approval of the minutes. Michel noted minor typo corrections. Motion made by Jamie Michel, seconded by Bill Branigan to approve the February 26, 2020 Short-Term Rental Implementation Work Group meeting minutes with minor corrections. The motion carried unanimously in a voice vote.
4. **Public Comment.** Tokos noted there wasn't anyone who indicated they wanted to dial into meeting. He noted the email from Bill Posner to resign from the Work Group. The City Council would need to fill his spot and a recruitment would go out. Spencer entered meeting at 12:38pm.

Tokos acknowledged the public comment from Carla Perry. Goebel asked for an update on the continuing problem of the Spring Street use and asked what the City's position was for the unit operating without a license. Malloy said the City took enforcement action. An attorney represented the owner. They negotiated a settlement and did pay a fine for previous violations, and anything outstanding had been cleared up. Goebel noted there had been continuing comments that they were still renting. Malloy said they were doing 30 day rentals and didn't have to comply with the STR codes to do this. Malloy didn't think they applied for their plans to reopen. Tokos didn't think they had an operations plan to reopen. He noted things took a while to investigate. Goebel asked how it worked if someone rented for 30 days but only slotted renting for weekends. Malloy said there was two different STRs that supplied rental contracts and there wasn't any way to know if someone could get out of an agreement if they choose to leave early. It was possible this could happen but they didn't have proof to verify what people paid. Goebel asked how this was monitored. Malloy said they drove by the unit often and the CSO talked to the tenants. Tenants weren't required to talk to the police so there were a couple of holes in the code that needed to be added to be able to get people to follow the rules.

Tokos noted another public comment had been submitted by Elain Karnes. He read her comment into the record. Tokos explained the Good Neighbor Guidelines could be reviewed at the next meeting. He acknowledged another public comment submitted by Mona Linstromberg.

Jacobi asked to discuss Linstromberg's letters and asked what the three citations on the Neff property at 1330 NW Spring Street concerned. Malloy said the owner was operating a short-term rental (STR) without a license. These three citations were handled by the City Attorney at that time and they negotiated a settlement. Jacobi asked that the Good Neighbor Guidelines be emailed to the Work Group before the next meeting. Tokos would do this. Malloy noted that the Neff property decision came down to policy decisions and was based on the court. The judge requested that when the Police Department had multiple violations for the same person they only issue one citation. Malloy explained that the Police Department was enforcing the way the judge has asked them to.

5. **Committee Discussion Items.**
 - A. **Revisions to NMC Chapter 4.25, Short-Term Rental Business License Endorsements.**

Tokos reviewed the targeted revisions to Chapter 4.25 Short-Term Rental licensing provisions. He noted the two changes that were done to address operational provisions. The Work Group needed to approve these revisions before the STR license renewal period to help the process be a smooth transition. The first change had to do with the posted signs requirement be specific to Vacation Rental Dwellings (VRDs), not Home-Shares and B&Bs. The argument was that when the owner lived onsite there was no need for a sign to be posted. The second targeted revision was to make sure the hotline sign was legible from the street and to allow condo units to be able to custom tailor the number of signs required at condominium units. This eliminated multiple signs for multiple units in a condo building.

Branigan asked how the sign needed to be posted for the STR on 73rd Street where the house sat back on the driveway. He noted the signs could only be seen by going up the driveway. Branigan wanted to see the sign be placed at the street. Michel reported that her management company posted signs on streets. She thought the language was confusing and it should just say that the sign needed to be legible from the street. Michel asked why the language said it should be visible from the adjacent street instead of just the street. Tokos explained that there were units on corner lots that asked which streets to post their signs on. Michel thought they should post the sign on the street that was their address. Tokos said sometimes this worked and it depended on where the unit was and how their driveway came in. He suggested they take out the word "visible" and use "legible". Malloy didn't know if there was a good answer for this short of people having to have two signs on corner lots. He thought it would be a big expense to make sure the signs could be seen from all directions. Michel didn't think owners should have to post in all directions and thought that if someone had an issue they should be able to walk to the property and be able to visibly see the sign. Malloy agreed. Tokos noted that what he was hearing was to modify the language to remove "visible and" and have it read that the sign should be visible from a location clearly "legible". They would take a look at if they were saying from the street, if the street the address it was from would work generally. There was general consensus to make these changes.

Tokos reviewed the second revision that concerned the 30-day use provision. Language was added to allow the City Manager to reduce the required number of rental days or set aside the provision entirely in circumstances where the STR or group of rentals couldn't be rented for reasons beyond the control of the STR owner. This change concerned the Nye Sands Condos that couldn't be used because of repair to the facility, and also the closure of STRs for a short period of time due to the COVID-19 pandemic. This allowed the City Manager to set aside or reduce the rental days due to these types of situations. The Work Group was in general agreement with the revision. Tokos reported that the City Council would review these revisions at their next meeting so there would be clear guidance for the STR renewal process starting on July 1st.

- B. Enforcement Update.** Malloy reviewed the enforcement list that Community Service Office (CSO) Jim Folmar submitted. He noted between February and April there were complaints on people renting STRs when they weren't allowed during the COVID-19 pandemic. They found that these were rentals to essential workers. Malloy noted that it wasn't clear to owners that STRs and Hotels had the same rules. He explained that when owners found out there weren't provisions to allow rentals in STRs at that time, the owners refunded the renters money and evicted them. There were only a couple rentals who stayed open that the CSO was trying to determine if violation occurred or didn't. The CSO was also finding few of the STRs were owned by local people and a lot of the correspondence was done through emails, letters and on the phone, and there wasn't as quick to handle issues. Most of the STR violations took a long time to investigate. Michel asked how many different complaint filers there were. She wondered if they were just the same few complainers or if it varied. Malloy thought the majority of people who reported unlawful STRs were in a small group. The Police Department thought there would be more reports about bad neighbors when the hotline signs went up, but there hadn't been as many as anticipated.

Branigan asked what it meant where it said "closed" on the complaint checklist and if they were given violations. Malloy said these were either closed with a citation, closed with no violation occurred, or closed and the place was not compliant. He said they tried to ask for voluntary compliance and a majority of the STRs did so. Half of the list were noncompliant and when they were notified they became compliant. Branigan suggested the report from the CSO say that a citation was issued where it said "closed" on the report. Malloy noted he asked the CSO to provide an updated list that would be distributed to the Work Group. Michel asked Malloy to speak on what the two citations were. Malloy noted both citations were on NW 58th Street and were for operating without a

license. This was different from the Spring Street citation because it was easier to prove. Michel wanted to see what the complaints were and what there were about. Malloy noted that when looking at these type of complaints, when it said rental they were renting without a license, and occupancy was when they were exceeding their occupancy. The occupancy complaints were based on what was being advertised and what the neighbors were counting for people onsite at one time. The parking complaints were hard to enforce because they couldn't block people from parking on the street. Goebel asked what they did when someone was renting without license. Malloy said they gave the owner a cease and desist with two weeks to comply. If they don't comply, they are given a citation. The Police didn't put the people who are renting on the street.

- C. **Licensed Short-Term Rentals with Operations Plans.** Tokos reviewed the list of STRs that submitted operations plans to reopen for Phase 1 during the COVID-19 pandemic. Nebel asked how many others submitted since the date of this list. Tokos reported there were two. Michel asked how many STRs didn't send in operation plans. Tokos didn't have the number. Michel thought they would see a lot of STRs dropping out of operations due to COVID-19.
- D. **Impact of COVID-19 on STR Work Group's Mandate.** Tokos said the deadline for the implementation review by the Work Group was based on a normal rental summer. He asked if the Work Group thought they should go to the City Council to ask for additional time to see how things were working under normal circumstances. Branigan agreed with this and thought the Work Group should go to 2021. Jacobi thought this was reasonable. Michel asked if this would mean changes couldn't happen until then. Tokos said major changes would happen in 2021 but targeted changes could happen. Michel was concerned about pushing things out a year. She hoped that what would come to the surface in the Work Group in the meetings was that they would see the issues perceived by a handful of local citizens were not the issues at hand. Michel hoped that after the first year they would be able to make a recommendation to Council and back off of some things like the cap. She didn't want to push that out past a year. Michel felt the people who were operating without a manager would fall off and these properties would go back to the housing stock. This was her only issue for pushing things off for a year. Michel thought a lot of people wouldn't be renting out their houses anymore and the 24 hour break in renting made people not want to rent. The trend in Europe saw a lack of inventory on VRBO and Airbnb. Michel thought the amount of people renting without a professional property managers would shrink.

Goebel asked if the STRs that fell off the list meant new licenses would be added. Tokos confirmed this and explained that the City would start going through the waitlist to add new licenses. Jacobi noted one of the big concerns of the community was to see a reduction in STRs in residential neighborhoods. They would still need to address the STRs outside of the overlay zone and the phase out. Tokos said the resolution would be structured to extend the review period to 12 months but noted the Work Group could issue a report to the Council at any time. COVID-19 introduced a wild card to their review and to draw conclusions on how the ordinance is working would likely result in people upset on the results because it wasn't normal circumstances. Tokos thought it made sense to add time because of the pandemic. Rogers stated he appreciated the data points and thought extending the time made sense. There was general consensus with the Work Group that a recommendation be given to the Council that the resolution should be revised.

- E. **Correspondence from Advocates for Safe & Healthy VRD-Free Neighborhoods in Newport.** Tokos reviewed the correspondence from the Advocates for Safe and Healthy VRD Free Neighborhoods. He noted that Carla Perry didn't want to dial into the meeting and thought if the Work Group had questions for the Advocates, they could weigh in on it later when they could participate in the public meetings. Tokos noted the staff was happy to give responses where appropriate for the issues the group raised and make it available to the Work Group as well. He asked for the Work Group's thoughts. Branigan wanted to hear from Legal on if they could be put in or not.

Murzynsky reported that all of the STR management companies had licenses. Michel noted she had no issues with adding a line on the license application signature line that said they were signing under penalty of perjury and that everything was true and correct to the best of their knowledge. Jacobi asked if the Work Group needed to talk about the clarification on delinquency and efficiency. Nebel thought this would be covered with the City Attorney and would be cleared up with Rogue Ales issue. Jacobi asked if there were any septic systems in City. Tokos reported that there were very few septic systems in City and he could look into it. Michel thought that if

something wasn't broken, don't fix it. If the majority of STR's were not on septic, they shouldn't change it. Jacobi agreed.

Goebel questioned if changing the language to say they "swear" they would have to swear someone in. Michel had no problem asking someone to sign this way, but thought the City Attorney should be asked about "swearing".

Jacobi asked if there was a process to provide a process for a resident to appeal a documented incident report. Tokos explained there was not. Nebel noted the City Attorney could review the list of his thoughts on this that would be brought back to the Work Group.

Jacobi asked how they should tackle the phase out in the non-overlay zone. Tokos explained this was a major change and something that would be included in the report to the Council. Goebel stated he wasn't prepared to take a position on this now and thought it could be put off. He liked how the ordinance was written and didn't see a need for this because it would open Pandora's box.

Tokos asked for input on the enforcement issues. Nebel thought this would be a discussion with the Council at the next Budget Committee meeting. Michel thought it was a wise practice to review this. Tokos noted that if someone was caught renting without a STR license through websites like Airbnb they could be tracked. Outside of this, they couldn't track and there was a nuance to it. Nebel thought this would fit into the Council discussion. Rogers thought the Advocates had good points but didn't see these items on any Work Group agendas. He thought they should be added to the discussions, but thought it would add to the time to review. Nebel thought it would be beneficial for Tokos to pull together initial responses from today and add them to future meetings. Tokos would do this and said it would be better to discuss this when the Advocates could share with the group.

Malloy noted that for the voluntary compliance violations, 19 out of 25 violations complied. This showed that voluntary compliance worked. There had been discussion with the court, City Attorney, and Community Development with suggestions on ideas about the code and how to better utilize the code to deal with people who were in violation. Giving them the opportunity to look at their entire code manual, not just STRs, would mean a lot of things would be fixed or approved.

Tokos said what he was hearing was that further discussion would be scheduled at another Work Group meeting. They would provide full context based on the day's discussion, and any additional thoughts that were received, as part of how they packaged things together for a future meeting.

- F. **Online Payment of Business License and Transient Room Tax Fees.** Murzynsky gave an update on online bill payments. The system was having problems, and they were working to find something more solid and put it in place soon. Murzynsky explained the Finance Department was working to get the online system set up to use LodgingRevs system for collections.
- G. **Short-Term Rental Licensing Fees.** Tokos reviewed the fee schedule that represented the current fees and how they were listed in the budget. The fees would be adjusted by the Work Group. Tokos explained that the fees could be held even or adjusted, and asked for input.

Branigan asked how this stacked up to similar cities on the coast. Tokos reported that when the ordinance was put in place there was general agreement that fees were appropriate and in line with coastal communities. Michel didn't have a problem with a small increase. She asked if the increases were by percentages. Tokos noted they used CPIU adjustments to calculate adjustments. Goebel questioned how much in revenues an increase would bring in. He didn't think the increase would have much of an effect on budget and thought it should stay the same this year. Jacobi agreed with Goebel. Michel noted that as a member of the management community she would appreciate holding off fees increases and thought this was a terrific gesture. Branigan wanted the fee increase waived. Rogers thought the increase was modest and didn't make a difference to the budget. He could go either way on this. Goebel thought it would be a nice gesture. Nebel wanted a recommendation. Tokos said what he was hearing was there was general agreement by the Work Group to keep fees the same as the 2019-2020 fiscal year. Tokos would give the adjustment to the Budget Committee.

H. **Additional Public Correspondence.** Tokos acknowledged the letter from Sherry Meek who was looking for a lift on the cap number of STR licenses. He noted that any changes to caps would be included in the report to the Council.

I. **Bill Posner Resignation.** No discussion was heard.

6. **Future Meeting Schedule.** Tokos would send a poll for the next meeting and hoped it could be held to allow people to attend who wanted to participate. He thought this might happen in a couple of months, assuming the County made it to Phase 2 of the COVID-19 restrictions. Goebel noted the spike in COVID-19 cases wasn't caused by tourists and hoped the Governor would let them move to Phase 2. Tokos would send a poll to the Work Group to set the date in a couple of months.

7. **Public Comment.** None were heard.

8. **Adjournment.** The meeting adjourned at 1:53 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant