

MINUTES
City of Newport
Short-Term Rental Implementation Work Group Meeting
City Hall, Council Chambers by Video Meeting
Monday, September 28, 2020

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

Work Group Members Absent: John Rogers (*excused*).

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

1. **Call to Order.** The meeting was called to order at 2:09 p.m.
2. **Review and Amend Agenda as Needed.** None were heard.
3. **Approval of Minutes.** Michel noted minor corrections. Motion was made by Jamie Michel, seconded by Cynthia Jacobi to approve the June 8, 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 they were trying to be sensitive to the fact that there were people who did want to provide comment and preferred to provide comment in a more conventional meeting format based off of the testimony the Work Group (WG) received at the last meeting. If the WG's term is extended there would be opportunity for these people to provide testimony in that fashion. Cynthia asked if Carla Perry's letter would be read into the record. Tokos noted that Perry's comments were provided at the end of the agenda. He reported that due to the City of Newport's virtual meeting policy they would not be reading the letter into the record. Tokos noted they would review Perry's letter at the end of agenda.
5. **Committee Discussion Items.**
 - A. **Update on Licensed Short-Term Rentals, Cap, and Waitlist.** Tokos noted they just wrapped up the second year of short-term rental (STR) renewals. He reviewed the summary of licensed units and maps for the geographic distribution of units. Tokos reported that there were 180 licensed STRs city wide, with 136 of these being vacation rental dwellings (VRDs) inside of the permissible area, and 36 VRDs outside of the permissible area. There were eight B&B's and Homeshares that weren't subject to cap limits. Tokos explained that there were properties inside the overlay zone that weren't actively licensed as STRs but had the right to choose to relicense within the 12-month window before their nonconforming use rights went away. These counted against the cap number because they had the nonconforming use right to change their mind and come back. There were also STRs that were transferable where the new owner had 12 months to obtain a license. When considering the 136 licensed units in the cap and the other units that count toward the cap, there are 18 licenses available to properties on the waitlist.

Tokos reviewed the two notification letters to either offer spots in the cap list or notify that the property was disqualified for getting a spot because of spacing standards. He asked for input on changes or additions to the letters. Jacobi thought the letters looked good. Branigan asked if they would be mailing the letters or sending them electronically. Tokos confirmed they would be mailed. He asked if the timeframe of 60 days to apply was reasonable. There were no objections. Tokos noted they would work down the waitlist and then go to the next person when people didn't apply.

Nebel asked when the 12 month period for inactive licenses ended. Tokos explained that this would be 12 months from the time they notified the city they were inactivating a license. If the owner didn't notify the city, it would be August 15, 2021. Tokos explained that they expected most of the 16 VRDs inside the overlay zone to reactivate their licenses.

Tokos noted there was a 20 percent reduction of VRDs outside of overlay zone. Some were due to the COVID-19 pandemic and some chose not to renew. Michel noted the trend was that COVID-19 had a major impact on rentals, some owners were expediting their retirement plans, the housing market was on fire, and what they were seeing economically was making a difference.

Tokos reported that it looked like the close of the annual renewal was the best time to reach out to people on the waitlist for open spaces in the cap list. He noted they were currently working through a third of the waitlist for open spaces. There were 18 on the waitlist who would be offered open spaces and there were three on the list that were ineligible for open spaces because of the spacing standards. If things kept to this pace, people on the waitlist could assume it would take up to three years for a space to open up for them. Goebel asked if the spacing standards could be challenged and if residential areas could have wider spacing standards. Tokos explained this would need a change to the ordinance. The spacing standards were very specific in the current ordinance. Tokos noted that condominium buildings such as the Embarcadero could have more than one STR in them.

Nebel asked if people on the waitlist who couldn't get a space would be notified how the spacing standards applied to their not being offered a space. Tokos would add this to the letter. He reminded that there were three people at this time who would get the letter and there may be more when they started working down the list to offer spaces. Nebel asked if there would be a general letter for other on the waitlist who weren't being offered a space. Tokos reported that they wouldn't be contacting others on the list to say where they were at on the list after changes. Nebel thought a letter should be sent to them. Michel thought it would be good to be proactive and do this. She suggested just sending an email notice to these people. Tokos would add this.

- B. Resolution Extending Term of the STR Ordinance Implementation Work Group.** Tokos noted the resolution would go to the City Council at their next meeting to extend the Work Group for 12 months. This would change the wrap up of the Work Group to the end of 2021. Goebel asked if the Work Group could become a standing committee for the city. Tokos confirmed it could potentially but they would need to make a recommendation to the Council to do so. Goebel thought it was an important issue for the city and thought a standing committee would be good. Nebel thought this should be a recommendation from the Work Group for permanent policies going forward and felt it was premature to make it a standing committee.

Motion was made by Dietmar Goebel, and seconded by Bill Branigan to make a recommendation to the City Council to extend the Short-Term Implementation Work Group term for 12 months and then transition the committee to a permanent committee. The motion carried unanimously in a voice vote.

Michel asked when the committee could talk to the Council about what they learned, how the ordinance was working, and how they might think the ordinance should be adjusted to work better based on their findings. Tokos reported this would happen in the middle of 2021. Nebel noted they could do some interim recommendations as well. Michel was glad to have another summer to review. She reported that the July and August rental rates were up in 2020 over 2019. Jacobi asked what these rates were. Michel reported the Chamber of Commerce had the STR occupancy rates for hotels and STRs to compare this year to last year. Goebel asked if hotel rentals were up. Michel didn't know about hotel rates but thought the Chambers would know this. Nebel noted the Chamber report was shared with the Council but he didn't remember this information on their reports. Michel could look into getting a sense of the rentals through her management company and give a report. Goebel asked what the reasons were for the increase in rentals. Michel noted reasons such as renters not being able to fly for their vacations who were staying local, and renters who set aside larger budgets for travel and chose to come to the coast for longer periods of time instead. She also noted that there were a lot of people who weren't going back to school and offices who were choosing to rent. Michel felt there was a different trend now and STRs catered to this.

Tokos noted the resolutions and the recommendation that the Work Group become a full time committee would be presented at next Council meeting.

- C. Short-Term Rental Enforcement Update.** Folmar reviewed his report and noted the majority of calls for complaints were in the "others" category. He noted that when people chose the option to call online they would

go directly to the Police Department (PD) without going through the call center. They needed to look at LodgingRevs online complaints and see if the emergency contacts needs to be contacted at that time.

Folmar noted there was a small number of parking and noise issues. He noted that they didn't find anything when responding to fireworks complaints. The parking and noise issues weren't being called into the emergency call center and were given to the Community Service Officers (CSO) and waiting for them to respond. Folmar noted they were receiving photos of cars parked in driveways and on the street. He asked if a car left, and one of the required off-street parking spaces was open, would it be a violation if another vehicle didn't move from the street to the off-street parking space. Folmar didn't want to hit someone with a first time violation for something they couldn't control. Michel noted this was why she thought the ordinance should be more cut and dry to say they either required all off-street parking or not. She thought this created a gray area and suggested it be an area to fine tune in the ordinance going forward. Branigan thought this was a gray area as well. He wouldn't hold the renter accountable for the example that CSO Folmar talked about. If someone went out of the space one day and the next day it was still open, it should be a violation. Michel thought this would still be challenging. Folmar noted he had to prove that their intention was to leave the space open and was where it got a bit dicey to issue citations for first and second strikes. It was the same problem when dealing with overflowing garbage cans. The question was if they could hold an owner who was not onsite accountable for another adult. Michel didn't want them to separate this class of renter or user from any other class. She thought that if there was a concierge requirement for garbage there wouldn't be problems. Michel felt this was something to consider down the road. Tokos explained that if there was an overflowing trash can it wouldn't be a strike. If they were leaving them out and not bringing them back to a shielded area that was the problem. The ordinance could force owners with these problems to do valet service. Folmar noted garbage was a nuisance violation. He asked if the owner or the renter would be charged for the violation. Folmar noted the PD would have to get a warrant or subpoena to get the renter's information. Michel reported that if the PD called about a nuisance, the manager would take care of it. The city's relationship was with the land owner. Michel thought they should have a discussion with the manager and owner. Folmar noted some owners didn't have managers and were out of the area. Michel thought it was the responsibility of the landlord then and felt this would be on the owner. She noted that in Yachats they only wanted to know on the application who the owner was and all of the local contact's information. Branigan thought they could alleviate some of the problems by requiring STRs to have large trash cans instead of the skinny ones. Michel thought that Folmar could ask owners use larger trash cans before requiring them to have the concierge service.

Jacobi asked for clarification on the city ordinance for fireworks. Malloy noted the PD went along with Oregon State law for fireworks which was anything that jumped off the ground more than six feet and exploded was against the law. The PD received frequent complaints for these and the problem was finding the source. When they did find the source, most of the time the approach was to counsel them, seize the fireworks, and give the fireworks to the Fire Department for disposal.

Michel noted that under the three noise complaints, only two were possible STR issues. She pointed out that the PD was taking calls that should go to managers and they should take note of that. Branigan noticed that 171 NW 71st Ct was on the list five times without any response from the owner. He asked if this should count as a strike. Folmar noted the one open was because they were waiting for a response from the complainant. Without this he was hindered to go forward. A lot of the times the complainant wouldn't response and that meant they couldn't proceed. Michel thought this was a pattern to look at. She thought this might be an area where there were neighbors who were watching for problems. They had to be fair, but a well-managed STR should not be that impactful on the neighbors. She felt repetitive disregard was a problem. Folmar noted there were a few STRs that had neighbors who had bad blood with them. He had to weed through these to see what complaints had teeth and address them accordingly. The determination wasn't usually tipped to the complainants' view because they wanted to see more enforcement action where it couldn't happen because they didn't have enough information or there was no basis for the complaint.

Jacobi asked for clarification on the 1330 NW Spring St dog bite complaint. Folmar said this went to CSO Ballentine and the owner said they didn't know the renter had a dog. The victim of dog bite didn't follow up with CSO Ballentine and she had nowhere to go with this. Goebel asked if 73rd Street was wide enough to park on the street and if there was a law against parking on the road. Folmar explained there was enough room to park on

the street and if there were cars parked across from each other it did narrow it down. He noted he didn't find any basis for the complaint about parking off of the asphalt on dirt area where they thought it was compromising the water and sewer lines.

- D. **Good Neighbor Guidelines.** Tokos noted the guidelines were provided because of a request by the Work Group. This was shared out to STR owners through license renewals and new applications to acknowledge they are providing it to renters in the rental book, online or posted in a prominent location on the premises. Michel noted the garbage disposal guidelines superseded her management guidelines. She didn't want to put the guidelines up to tell the renters about garbage when they had concierge service. There needed to be a way to get her management policy to supersede the guidelines. She also wanted the 24 hour contact information to say the guest should call management instead of the 24 hour hotline. Tokos noted the guidelines said that the 24-hour number be posted within the unit or on the property. It was saying either one should be called. Michel just didn't want the PD to be taking calls for things such as plumbing problems in the rental. Nebel thought it needed to be more clear on the 24 hour contact information.
- E. **Vacancy on Short-Term Rental Ordinance Implementation Work Group.** Tokos asked the Work Group to share with people they knew that there was an opening on the Work Group.
- F. **Update on STR Online Payment and Billing Solution.** Tokos acknowledged the report Mike Murzynsky in the Finance Department submitted.
- 6. **Future Meeting Schedule.** Tokos noted the next meeting would be held in the next quarter and he would send out a poll for the best dates.
- 7. **Public Comment.** Goebel asked if the unit on Spring Street that was noted in Carla Perry's letter was the one that was newly built that was not a vacation rental. Tokos reported it was and the unit was never a rental. Goebel asked how they could make this problem go away. Folmar reported that the PD found that this unit was a long term rental and the other was a short-term rental. The people renting this unit were able to show they were renting more than 30 days. Folmar reported they found out everything they investigated was aboveboard. Goebel noted the photos Perry submitted showed a lot of changes to the cars. Folmar would look at photos and go from there.

Jacobi asked about the requirement to report the status of a complaint to the complainant after the resolution was made. Folmar reported that they usually did this if the complainant provided their contact information. Sometimes things fell through the cracks, but the goal was to contact the complainant and homeowner on what the decision was.

Goebel asked what the rules were for when someone rented a unit for a couple months and chose to sublet it. Tokos said they didn't regulate subletting. He explained that if someone was subletting for under 30 days for money it was considered a short-term rental and they would have to have a license. A discussion ensued regarding how people could circumvent the 30 day use rules.

Tokos would add an agenda item to the next meeting to start putting together issues the Work Group wanted to address and to decide whether they wanted to include these in a package of recommendations. Nebel requested that staff get together with the City Attorney to review enforcement issues.

- 8. **Adjournment.** The meeting adjourned at 3:21 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant