

**MINUTES**  
**City of Newport**  
**Short-Term Rental Implementation Work Group Meeting**  
**City Hall, Council Chambers**  
**Tuesday, November 19, 2019**

**AC Members Present:** Cynthia Jacobi, Jamie Michel, Bill Posner, Dietmar Goebel, Spencer Nebel, Bill Branigan, and John Rogers.

**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, Anne Sigleo, Wayne Benson, Elaine Karnes, Chris Schneller, Cheryl Connell, Ona McFarlane, and Teresa Inman.

1. **Call to Order.** The meeting was called to order at 10:34 a.m.
2. **Review and Amend Agenda as Needed.** Tokos asked for amendments to the agenda. None were heard. Tokos noted that the City Council had been contacted by several short-term rental (STR) owners who the City couldn't assist in issuing licenses to due to the new ordinance rules. Tokos asked to add this topic to the agenda. The committee was in general agreement to add the item to Section 8. B.
3. **Approval of Minutes.** Motion made by Jamie Michel, seconded by Spencer Nebel to approve the August 20, 2019 Short-Term Rental Implementation Work Group meeting minutes as written. The motion carried unanimously in a voice vote.
4. **Update on Licensed Short-Term Rentals, Cap, and Waitlist.** Tokos reviewed the staff memorandum noting the STR renewal process had been completed. The deadline for the STRs that had submitted applications before the new ordinance had passed. Tokos reviewed the current counts of STRs in and out of the overlay zones, and the number of home shares and B&Bs. He explained the nonconforming rights for licensed STRs that didn't renew. Jacobi asked if there were any STRs included in the counts that were currently under construction. Tokos reported there weren't because only existing dwelling units could be licensed.  
  
Goebel asked what the total housing percentage of VRDs were for those in and out of the overlay zone. Tokos would provide these percentages. Michel asked when the three open spots on the STR waitlist would be available. Tokos explained that now that the counts were cleared, under the new rules the City's intent was to start contacting owners of units on the waitlist.
5. **Disposition of Short-Term Rental Applications Submitted Prior to Ordinance Adoption.** Tokos reviewed the staff memorandum. He explained that nine of the 23 applications that were submitted before the deadline didn't follow through with the licensing process. These units were notified in writing that the City would not be doing anything further with their applications. Tokos noted that one applicant asked to be placed on the waitlist.
6. **24/7 Hotline Implementation.** Tokos reviewed the staff memorandum. He explained the third party vendor had been hired and 24/7 hotline signs had been distributed. A notice was sent out by mail and email to all licensed STRs to pick up the signs. Tokos explained that the ordinance didn't address signs for condo units, so it was decided that they would only require one sign per building. The Embarcadero had multiple buildings so their signs were placed in locations as per units in the buildings. Branigan asked what would happen with owners who didn't pick up signs. Folmar reported that he had contacted the owners of these units and gave an update on who responded to his requests. Tokos noted that there had been complaints that some owners had picked up signs but hadn't installed them. Folmar would be following up with these owners.

Tokos reviewed the types of complaints that had been reported on the 24/7 hotline. He noted there was a centralized database for the Police Department (PD) to follow up on. When complaints were lodged outside of

the system, Folmar entered this information into the system. Posner asked if the response time was tracked in the system. Tokos explained that it was and he would be speaking on this when he talked about the LodgingRevs interface. He noted he would be talking to the vendor and getting a report on this. Tokos reported that there were now links to the hotline on the City's website.

Jacobi requested that acknowledgements be sent out when a person submitted a complaint on the hotline to make sure they received confirmation that the complaint was received. Folmar said when he saw a complaint submitted he added a note to the record so there is a time stamp. He wasn't sure if the complainant could go back in the system and see his notes. Tokos reviewed incident reports that showed what the City saw in the system and the notes that Folmar logged. He reviewed the audit log where the time stamp was recorded. Posner asked if updates were requested from the vendor. Tokos said they were and the incident form was an example of this. Posner thought that if the customer's email was in the complaint it would be easy for the vendor to send out an email to them confirming the status. Tokos would talk to the vendor about this.

7. **Enforcement Update.** Folmar gave an update on enforcement and reviewed the report he handed out to the Work Group at the meeting. He noted that a lot of the complaints were happening over the weekends and he was following up on these on Mondays because of his work schedule. Folmar reviewed his workflow on following up on complaints. Posner asked if the system prioritized complaints. Folmar explained they didn't but he would prioritize them as they came in. Malloy asked if LodgingRevs triages and then sends the complaints to dispatch for pressing issues such as loud noises, and blocked driveways. Tokos explained LodgingRevs would first contact the local representative of the unit, and if the issue was more criminal LodgingRevs would contact the police. He would follow up with LodgingRevs to understand what circumstances the City wanted the issues referred to the nonemergency lines. Nebel asked what happened if the complaint with the local contact person remained unresolved. Folmar said they were trying to work through how to know when to involve an officer and who called dispatch directly. He said he hadn't had an instance where the contact didn't respond. Folmar reminded that the public could call the police first for issues as well. Nebel thought the protocol needed to be sorted out to understand if LodgingRevs was initiating to dispatch or directing them to contact 911. Goebel asked what happened when calls came in directly to the PD. Malloy said they are working through this with officers on how to make sure that Folmar was notified, how officers responded, and how to know if a complaint constituted a strike.

Goebel asked if strikes on STRs ever went away. Malloy said strikes stayed on their record for 12 months, and they would review every complaint reported to determine if it was a strike. Michel asked Malloy to share what the basic outline of the findings for strikes was. Malloy said when an issue was a blatant violation of one of the listed violations, they would be hard pressed to say it was not a strike. Folmar said there were a couple of violations that fell in the gray areas and the findings didn't fit. He was working through the complaint issues and once this was figured out they would see gray areas get smaller. Michel asked if someone responded to a complaint and corrected it, would the complaint go away. Folmar explained if they did the corrections it wouldn't be considered a strike. Malloy reminded that this would be determined case by case. Branigan asked if anyone had ever tried to appeal a citation. Folmar said they did, and gave an example of a long term rental that was advertising on Airbnb. The owner had to submit information that proved the unit wasn't a STR. Malloy reported that nobody had pleaded not guilty or asked for a court hearing. Goebel asked how much the citation was. Folmar explained it was a monetary citation of \$500 per day.

Tokos reviewed enforcement issues the City was having with time shares, which were resorts where the units were owned for a portion of the year. He noted that as long as owners of time shares were going through the resort to rent their units, they would fall under the hotel/motel category. If the owner was going through Airbnb to rent, it would be a code violation. Folmar reported on the time shares he had followed up with to find out who wasn't compliant. Malloy noted that trying to track down noncompliant time shares was labor intensive and hard to do.

Tokos explained the City was looking to shut down STR units that were operating without licenses. In cases where the units were rented with Airbnb, their room taxes were being collected and submitted by Airbnb to the City. Tokos noted that Airbnb did not remit which unites they were collecting room taxes for. He noted that State law required intermediaries to collect room taxes. Goebel reported that there were some cities who required

Airbnb to have a business license and asked if they had one for Newport. Murzynsky reported that he thought they did have a license with the City and would look this up for the work group.

Rogers felt that owners who operated STRs without a license should share in the expense of the officers assigned to perform duties across the City. He thought the Work Group should discuss requiring a reimbursement for services the STR owners received even though they didn't submit revenue for their support. Folmar noted that other cities ran into issues with citing for STR operations without licenses. There were instances where owners went to court and argued they couldn't cite based on advertising because this only showed intent, not actual proof of operations. Folmar said this was something they could do but they would have to decide how far they would ask the owner to report on their rental listing. Tokos reminded that in the circumstances where the rentals were renting through Airbnb or other intermediaries, the City knew these units were paying room taxes. If they weren't using an intermediary, the City wouldn't have the data and this would be more challenging. Michel thought the City would be chasing their tails by pursuing this because they would be relying on the owner to provide the data and the records might not be correct. She thought this was a waste of City money. Tokos thought the City could require the units that received a cease and desist letter to log if they were using an intermediary to make sure the City had the information. He suggested tracking this for a given time and then report back to the group. Tokos said that because the City was operating in a situation where they weren't adding licenses, this would be an ongoing problem. A discussion ensued regarding one off rentals and the City not going through a full summer rental season yet.

Michel asked if there could be a ruling going forward that said if someone was caught or received a cease and desist letter, they would be required to owe back taxes going forward. Nebel thought this issue might need a resolution from the City Council on room taxes. Tokos said they could try and track which units were already paying taxes through Airbnb. Goebel asked if there were any requirements for someone to use someone's house without money being exchanged. Tokos said this was allowed outright as long as there wasn't money exchanged.

8. **Outreach Needs.** Nebel noted that the City had been dealing with fallout from owners who didn't have a license when they thought they did, and weren't able to get a license. The City had been receiving communication from these people who were unhappy that there wasn't a remedy. Nebel wanted the Work Group to know how these were being dealt with. Goebel asked if a group email report could be done to the Work Group. Nebel thought they probably could but it was good for the Work Group to be aware that it was taking a fair amount of time for the City to respond to the issues. He noted some issues that were coming up that included people who were appealing but there wasn't an option for appeals. Tokos would put together correspondence from these instances so the Work Group could review them the next meeting. He explained they were required to work within the framework of the ordinance as it was written, then identify what the rental options were for these owners such as renting month to month. Tokos noted there was also an option to do home shares for their rentals as well. Owners could also contact the City Council about what the issues were. Tokos felt it was important for the responses to be the same from everyone at the City. He noted that staff could be pulled in to help with responses. Jacobi wanted to acknowledge any letters the City Council received and then refer them to staff. Tokos said it was important for the Council to respond first, but he was happy to do this. Nebel noted there were people who were frustrated and thought some of them would be coming to the City Council to address their concerns. A discussion ensued regarding what the City Council was expected to do, and ways the City Council could acknowledge concerns then direct them to staff.

Nebel suggested putting together responses to certain issues for the City Council so they could be consistent with language. He said the key thing to note was that the City needed to get the process in place, they had made a lot of progress to get this fully in place, but they weren't there yet. Tokos would put together suggested language for the City Council. Goebel asked if the City Council was notified in all of these instances. Tokos reported that most of the instances were taken care of at the department level. A discussion ensued regarding how unlicensed units were handled and what the different options were for owners. Nebel noted that the new ordinance put distinctions in place that hadn't been defined before. They would have to sort through issues that were new to the ordinance to clarify and clean things up.

9. **Workgroup Status Reports.** Tokos reviewed the staff memorandum. He noted the ordinance required status reports on a quarterly basis to the City Council and Planning Commission. Tokos asked how the Work Group

would like to do the reporting and suggested using the meeting minutes as the reports. Posner wanted to see the stats come out of the system on complaints by pulling the dashboard out of the system. Michel asked if they could collect in the minutes what the findings were on incidents. Tokos suggested attaching a summary memorandum to the minutes, along with a summary from Folmar, as the report. The Work Group was in general agreement to do this.

Murzynsky reported the Finance Department was starting the process to work with Casella to do room tax reporting. They were hoping to have it done by December 31, 2019. Murzynsky explained they were working on the foundation of Casella to make sure the system was set up properly. Tokos noted that there was one component with LodgingRevs that the City hadn't implemented yet because it was dependent upon the ability of STR operators to make online room tax payments. This was what the Finance Department was working on. Tokos explained that LodgingRevs monitored what the STRs collected for room taxes and compared this to what people actually reported to the City to find significant discrepancies. Michel questioned if LodgingRevs was looking at block outs on online calendars to monitor this. She noted that people would block out rental dates without actually renting them. She was concerned this could mean discrepancies and might be misleading. Michel gave an example of units that were currently under renovation that were blocked out on calendars. Tokos noted that the LodgingRevs reports would flag the property for a follow up and wasn't an immediate violation.

10. **Public Comment.** Tokos opened up the meeting for public comments. Anne Sigleo addressed the Work Group and reported she had a complaint about dogs at STRs and thought that STR renters shouldn't be allowed to have them at rentals. She also had concerns about how renters parked and reported experiencing the renter's cars being parked out on the street. Sigleo thought there needed to be a stronger emphasis for renters to park where they were required. She asked what should happen in instances where the public had proof that a unit was being rented without a license. Nebel noted the public could submit a complaint in the system for this. Malloy said the Police Department wouldn't know about some of the unlicensed units unless people reported them. Folmar noted that anything that was reported would be followed up on and enforced.

Cheryl Connell addressed the Work Group. She asked for clarification on if "nonconforming" was for the property or for the use. Tokos explained that this was a nonconforming use for all of the STRs that were licensed and fell under the 2012 ordinance. These units became nonconforming because they didn't satisfy the full parameters of the new ordinance. Connell asked if the nonconforming use went away when ownership changed. Tokos explained that if the unit was outside the overly zone the license went away as soon as ownership changed. If the unit was within the overlay zone and in a residential zone, the license would go away. If it was in the C-2 or water related zones, an ownership change would mean the owner would have the right to sell the unit as a vacation rental and their place in line was held open.

Connell asked how long a strike lasted. Folmar confirmed it lasted 12 months. Connell noted that LodgingRevs was still listing the form as a "complaint" form and wanted the word taken out. She requested Folmar's report that was handed out to the Work Group be provided to the public. Tokos confirmed that the report would be uploaded to the Work Group's web page. Connell noted that the minutes from the last meeting noted that Nebel wanted the list of STRs provided in an Excel spreadsheet as well as a PDF. She requested this be done in the future. Connell noted that the hotline signs were critical for when the PD went out so that they could identify the unit as a STR. She reported that she had observed signs that were not located in an area that was easily seen on the property. Connell wanted signs posted at the front doors. She asked for clarification on the follow up on violation reports, and noted that she contacted Folmar with a violation report three weeks before without a follow up. Folmar noted that Connell sent her email complaint to an incorrect email address for him. He thought he had sent her a reply already but would resend it to her.

Elaine Karnes noted she submitted a couple comments online without having any follow up. Folmar noted the system had some problems and there were a couple of complaints that still needed to be addressed. Karnes thought it was an issue that complainants weren't getting a response. Folmar hoped they could build something in LodgingRevs so the complainant could see that he placed noted on the complaint. Tokos would talk to LodgingRevs on getting an automated response to complaints sent out to acknowledge they were recorded in the system.

Mona Linstromberg addressed the Work Group. She had concerns about issues with septic system capacities for STRs properties in the City. She questions if any licensed STRs were on septic systems and requested the City look into this to determine who was. Linstromberg noted that properties in unincorporated communities were having problems with septic systems accommodating the number of rooms for STRs. Tokos explained this was not easily determined and thought the City's bedroom limitation was more strict than the County. He noted the City dealt with modest residential homes and the County had larger sized residences on septic systems. Tokos reported that the City didn't know all the properties who were on septic but generally most of them were not sizeable. Linstromberg noted that when someone made a complaint they should be able to do it anonymously. The system was requiring people to have a name attached to the complaint. Tokos noted that he saw where no email was provided and thought a field could be noted as blank.

Carla Perry addressed the Work Group and reported that a person told her they couldn't file a complaint without submitting a name. Folmar thought they should have the option to not give a name. Tokos would follow up with LodgingRevs on this. Perry recommended that a STR application has a statement that the applicant is signing off that the above information was true. She also wanted the person listing the complaint to be able to print out a report of the complaint on LodgingRevs so the person listing the complaint had a record of it.

Perry asked if there was a time that the data of all complaints would be made available to the public online. Folmar thought this could be discussed with LodgingRevs. Perry noted that Meredith Lodging was a major player in rentals but didn't see them as being one of the sites checked. Tokos thought that LodgingRevs had done this and there had been a check on them since the last meeting. Folmar reported that the STRS that were advertising and had discrepancies were reported to him by LodgingRevs. The PD depended on the public to report other unlicensed STRs that weren't advertising. Perry reported there were issues with STR hotline signs being hidden. She asked what was being done about getting these signs moved. Folmar noted the STR that was reported had a sign that was visible from the adjacent street. The ordinance said signs needed to be visible from the adjacent street. Perry suggested that if STR owners be encouraged to put the signs in more visible spots. Folmar thought they could suggest this to the owners. Perry noted the complaint she submitted said it was closed on the report because the parking wasn't in violation. She explained that her complaint wasn't for parking, the renters were using the adjacent property for parking, which blocked a public the trail. Folmar explained the 72 hour rules and requested that they be contacted when the renters were blocking access to the trail again. A discussion ensued regarding STR parking requirements and how people utilized public parking. Clarification was given that STRs needed to provide one off-street parking space per bedroom but renters weren't required to park in the designated parking spaces if none were available. There was nothing in the ordinance that limited the number of vehicles renters had when staying at STRs.

11. **Adjournment.** The meeting adjourned at 12:46 p.m.

Respectfully submitted,



Sherri Marineau  
Executive Assistant