

Draft MINUTES
City of Newport
Vacation Rental Ad-Hoc Committee Meeting #3
City Hall Council Chambers
Wednesday, February 28, 2018

AC Members Present: Carla Perry, Cheryl Connell, Braulio Escobar, Norman Ferber, Jamie Michel, Margaret Dailey, Don Andre, Bill Posner, Charlotte Boxer, Martha Winsor, Bonnie Saxton, and Pam McElroy.

AC Members Present By Phone: Lauri Hines.

Planning Commission Liaison Present: Jim Hanselman.

City Staff Present: Community Development Director (CDD), Derrick Tokos; Building Official, Joseph Lease; Fire Engineer, Chris Rampley; Fire Marshall, Bob Harvey; and Executive Assistant, Sherri Marineau.

Public Members Present: Bob Berman, Steve Lane, John Vann, and Chris Ehrmann.

1. **Call to Order.** The meeting was called to order at 1:03 p.m.
2. **Disclosures.** Tokos asked for conflicts of interest. Andre, Saxton, Ferber, and Michel disclosed they had potential conflicts of interest. Dailey, Hanselman, Perry, Connell, Escobar, Posner, Boxer, McElroy, and Winsor stated they had no conflicts.
3. **Approval of Minutes from the February 14, 2018 Meeting.** Tokos asked for input on the minutes. Dailey, Boxer, McElroy, Michel, and Perry noted minor corrections to the minutes.

MOTION was made by Dailey, seconded by Boxer to approve the February 14, 2018 Vacation Rental Ad-Hoc meeting minutes with minor corrections. The motion carried unanimously in a voice vote.

4. **Review Agenda, and Revise as Needed.** Tokos asked for any adjustments to the agenda. Perry stated she had questions about the materials the AC received for the current meeting. Tokos said this was related to the Committee Requests and would be picked up then.
5. **Committee Requests.** Tokos covered the committee request documents that were shared with the AC. Tokos noted the number of construction types of current VRDs were 97 single family dwellings, 17 townhouses, and 74 condos/apartments.

Discussion Items:

- Boxer asked for clarification if the Little Creek Cove units were condos. Tokos explained if they went through a common rental pool it was considered hotel/motel.
- Boxer noted that the VRD listed as number 4 was zoned R-2 instead of C-2. Marineau would correct this.
- Tokos noted that room taxes would be presented at the next AC meeting. Ferber asked if there had ever been a fine levy. Tokos said the City hadn't levied many fines. He referenced a unit on 73rd Street, owned by Jerry Burger, that was levied. Connell asked if owners could contest citations. Tokos said they could and didn't know if the 73rd Street levy had been paid.
- Perry noted that Burger had nine complaints but was still on the list. She asked what it took to be taken off the VRD list. Tokos said this would be discussed at another meeting as part of the process to deal with repeat offenders. He said the City's code didn't have a provision for those with a number of violations to no longer operate a VRD and would mean a change to the code. Hanselman asked if it would be the duty of the compliance officer to follow through with complaints. Tokos said the compliance officer would handle the citations and municipal court aspects. The Community Development Department office would handle issues short of this and noted that complaints had been a split duty between the two.
- Hanselman asked if the compliance officer had been lacking in the last 5 years. Tokos no, but there had been periods where there was a vacancy. He said there were three people in the position during this timeframe and the first person was in the position for a long time.
- Perry asked about a property on the complaint list that said Vacasa terminated management for a VRD but was still listed as the management on the VRD list. Marineau would check on the list. Tokos said we could put in the code provisions that owners provide changes to who was managing the property in a certain period of time and if they didn't, it would be a code violation.

- Perry asked if VRDs didn't list a local person as the contact, did it mean they didn't have a local person to respond. Tokos said not necessarily. He said some had an address outside of Newport but had a local contact. Tokos said this would be something to explore further when getting into the designated contact piece.
- Boxer suggested having a sheet that could be used as a yearly update of contact information for VRDs.
- Michel said that if the AC decided to do a limit of how many units one owner could have, the way the property was leased/managed would be a loophole they would want to look at to catch this.
- Boxer noted that on the last minutes there was a discussion on LLCs. She noted that LLCs couldn't get an owner occupied loan and it would be a flag that the VRD wasn't owner occupied. Michel disagreed and explained how deeding worked. She said the AC couldn't use it solely to determine owner occupied.
- Connell said it was important to have a definition of what an individual property owner was. She said the Seaside ordinance defined a person and entities to ensure they counted everyone when they addressed their limit numbers. Tokos said this would be an important issue if the AC decided to use owners as a way to limit. He said if they were doing caps, it wouldn't so much.
- Ferber asked if any fines had been implemented. Tokos said there hadn't been a huge number of formal complaints filed. The issues could have come up in context to a call to police, a call to the code compliance specialist, or a call with the designated contact that got resolved with them. Ferber said there were individuals who were having significant problems with their neighbors. He said the issue was poor management and should be the primary focus. Ferber asked the AC if they would have problems with VRDs if there were no enforcement issues. AC members said yes. Ferber said didn't that mean the AC had a bias against VRDs. Perry said she was okay with commercial areas at 30 percent VRDs. She said she didn't have an objection to VRDs, she had an objection on where they were located and the percentage of VRDs in the locations they were in.
- McElroy noted there were nine violations at the VRD at 171 NW 3rd Street that looked like nothing happened. Tokos said that when there were multiple issues noted, they had been resolved as the issues came up. McElroy said it appeared that nothing was being done. Tokos noted it was over a period of time. McElroy said the time period of complaints should be looked at and kept in mind. Posner said this was why he liked a cooling off period. Hanselman suggested an 18 month rolling clock on complaints.
- Connell said the list of complaints showed police reports on parking complaints that were not listed in the list of complaints. She said this needed to be looked at for a system to funnel complaints and as a part of what was considered for progressive discipline for property owners. Tokos said this could have interdepartmental and cross departmental aspects. Connell thought that using the website to post complaints would be a way to get information on how the VRDs are adversely impacting an area.
- Perry asked for clarification on the LLCs listed on the VRD list without business registries. Boxer said they were LLCs that had not paid their dues to renew their annual fee and meant they were no longer registered. Perry asked how the City handled LLCs without business registry. Tokos explained that business licenses were done yearly and VRD endorsements were only issued once. He said the current code didn't put onus on the City to regulate. Tokos said there could be an addition to put an onus on the property owner to provide this information with it being a violation if they didn't do it in a certain amount of time. Perry asked if an annual update submittal requirement for VRDs could be done to catch some of these changes. Tokos said this could be done. Escobar suggested a yearly license renewal to show their compliance.
- Boxer asked if VRDs had to get a business license each year. Tokos said the business license is renewed every year and should be picked up by Finance for renewal process. Boxer suggested they check LLC registry at that time of renewal. Tokos said the Police Department and our offices didn't have resources to do these reviews and something they would have to face with recommendations. Boxer noted there was software that would send notifications if LLCs were in good standing.
- McElroy thought a VRD license shouldn't be renewed as a function of time without an interface for complaints and a check on if business licenses were compliant. Michel said it could be a part of a compliance checklist and there could also be a good neighbor list which included if transient room taxes had been paid. McElroy said there might be software that could track how VRDs were meeting benchmarks.

Tokos noted that Winsor sent him a report from Sonoma County just before the meeting and would post it to the website and distribute it to the AC. Winsor said the report was more appropriate for the next meeting. Hanselman requested a count of residences/condos/houses west of Highway 101 to look at VRD distribution issues He didn't want resort rooms included in this count. Perry asked for updates on the VRD list as it changed.

6. **Vacation Rental Dwelling (VRD) Safety Inspections.** Tokos introduced Joseph Lease, Chris Rampley and Bob Harvey. He noted that the Fire Department started inspections that weren't a part of the VRD code. Lease addressed the VRD and explained what he inspected for the VRD codes. He listed what he was looking for in his inspections. He noted the updates he suggested for the current code for safety inspections. Tokos asked for clarification on which code Lease was referencing. He said it was the Oregon Residential Specialty Codes.

Discussion Items:

- Connell asked how long it took for Lease to conduct inspections and write up recommendations. He said it took anywhere from 30-40 minutes and he factored in an hour for each inspection.
- Boxer asked what the charges were for inspections. Marineau said the initial inspection was \$131 and follow up inspections were \$77.
- Posner asked if any units had smoke alarms that are hard wired. Lease said the building code required new construction to have wired smoke alarms but renovations didn't require them unless a bedroom was added. Rampley said the fire code required like for like.
- Boxer asked what the intervals were for inspections. Lease said the Building Department only required the initial inspection. Tokos said Fire was looking into more frequent inspections. Boxer asked if Lease was the only one who did building inspections. Tokos said the County and Clair Company could do these as well.
- Braulio asked Lease for his thoughts on how often VRDs should be inspected. Lease said he didn't have a recommendation but the VRDs he had seen over the years were fairly well maintained. He said when the owners were at the initial inspection, he would go through the checklist with them and they would tend to maintain the units better.
- Winsor said if an additional bedroom was added to a VRD, was it followed up on. Tokos said this would be discussed later in the meeting. He noted that VRDs that had more rooms in the unit than what was endorsed for couldn't use these rooms for the additional 2 in occupancy. Winsor asked if owners created more parking spaces for additional rooms, would they be inspected. Lease said the entire home would be inspected. Rampley said there was a way to lock the doors to the rooms that weren't endorsed. Tokos said it would be on the owner's honor not to use these rooms. Lease said if a VRD was advertising a higher occupancy than endorsed, it would be a violation.
- Tokos asked what the common issues were when inspecting. Lease said smoke detectors, GFCI receptacles, egress windows, and straps on water heaters. Tokos noted there were owners that didn't pursue VRD endorsements based off of the cost of improvements for these issues. He emphasized the inspections applied to VRDs and B&Bs. He said most B&Bs were built under the residential codes and weren't drafted with commercial uses in mind.
- Hanselman asked if the City had different inspection requirements for resorts and long term rentals. Lease said hotels were subject to the fire code. Rampley explained the Fire Code was based on the length of occupancy. He said the fire inspections for resorts were the same as hotels.
- Berman asked if about 50 percent of inspections failed on the first inspections. Lease said yes.

Bob Harvey addressed the AC. He explained how the fire inspections for VRDs came about. He said based on the four deaths in a Newport Hotel in 2016 and three fires in VRDs in Lincoln City, they looked into how VRDs were being inspected. Harvey said the Fire Department was trying to be ahead of the game so there weren't any more incidents in Newport. He said he had only had one question since starting inspections about why the Fire Department was inspecting their home. Harvey said he explained that because they were using their homes for business, they were considered in the same business code as transient lodging and why they were doing inspections. He noted that Rampley did inspections and kept an inspection data base. Harvey said that their code was a maintenance code and gave the Fire Department impetus to make sure that panic hardware was maintained and exit lights were working. He noted the Fire Department was hiring a Fire Prevention officer that would be dedicated with fire inspections.

Harvey noted a challenge for the Fire Department was people disconnecting smoke detectors. He said the Fire Department would be recommending all VRDs and hotels/motels have some kind of interlock system to notify them when smoke detectors were messed with. He said if it was put in a system, then they would know the location of the alert. He also wanted a key box requirement that had a universal key so the Fire Department could get access to VRDs when there were issues.

Discussion Items:

- Hanselman asked if inspections were being done for B&Bs. Harvey said yes, the Fire Department categorized B&Bs as part of the hotels/motels because there were managers onsite. Harvey said the intention was to have an annual inspection on VRDs.
- Escobar asked if the Fire Department had specific recommendations for the code. Harvey said in the future he would be considering a requirement for installation of a monitored smoke & CO detector system, specific locations for address number, no tampering with smoke detectors, yearly inspections, and requiring a lock box.
- Posner asked if there was a modern device that would know when the locks were being messed with. Harvey said a system like the one he had with ADT would alert. Saxton said that Vivant had a system and questioned if the property managers on the AC thought it would be too invasive to have locks that took photos. Harvey said Newport was leading the charge on how to approach it.
- Perry asked if fire inspections were being done for VRDs. Harvey said they started in March of 2017.
- Michel asked for an estimate of the cost for improvements. Harvey said a Knox Box was \$84 and the monitoring system was around \$200.

- Ferber asked about the frequency of false alarms. Harvey said they were very low. Ferber asked if the system was triggered when a battery died. Harvey said it depended on the company the unit was purchased from. He said a signal could be sent that would identify what the alert was for, but it depended on the system in use.
- Ferber asked if the Knox Box had a key in the box. Harvey explained there was a special key cut just for their jurisdiction that the responding unit would use to get into the box to access keys to any area in the VRD that needed access. Ferber asked if the Knox Box was purchased through the Fire Department. Harvey said yes and was coordinated through the Fire Department.
- Ferber asked who would be called for gas leaks in the event of a tsunami. Harvey said the Fire Department would take care of anything they could.
- Connell asked what was charged for the fire inspections. Harvey said there wasn't a charge for the hour inspection. Rampley noted the re-inspection took less time than the initial inspection.

7. **Options for Amending VRD Safety & Development Standards.** Tokos reviewed the PowerPoint presentation on amending safety & development standards. He covered the meeting objectives and format of the slides. Tokos noted that the slides showed issue areas where the City might want to revise its vacation rental rules. Connell asked for the source of the justification for requirements. Tokos said it was the ability to put into place land use regulations and the reason why they had to justify why they were doing things.

Tokos covered the rationale for regulating. He asked if there was an interest in seeing the existing language expanded. The AC said yes. Tokos asked the AC if the language was going in the direction they wanted to see it go. The AC agreed. Connell liked the idea of clarifying what the City wanted to accomplish by having VRDs, and articulating what the impact on neighborhoods would be immediately and long term. Posner said it could also be a question on if VRDs should be made an industry of Newport.

Definitions were covered next. Tokos said development standards should be included in definitions. He noted that one of the areas that the AC got tripped up on in the 2012 VRD regulation updates was the five bedroom limit. Tokos said it wasn't included as a development standard but was couched as part of the definition of what distinguishes a VRD from a hotel. He said no one would reference definitions when they are evaluating whether something meets development standards.

Discussion Items:

- Tokos said that if the AC wanted to distinguish between home shares and other vacation rental uses, they would have to define the term for home shares. He asked for the AC's feedback. Perry asked how the City currently defined the difference between a home share and B&B. Tokos said home shares fell under a VRD definition and was treated as VRDs. He said the B&B common factors were an onsite person and meal service. Perry said she was inclined to make them separate because a home share owner would be onsite but wouldn't have meal service. Posner said not necessarily; some owners who occupied their homes would vacate them to rent out the whole house at times. Dailey thought it should be classed as a different thing because homes that were used by owners part time and then rented out otherwise was different from separate multiple VRD units. She felt they needed their own definition and thought definitions would be a way to restrict VRDs in zones.
- Saxton asked if home shares were less than 30 days. Tokos said yes. He said Astoria required the homeowner to be present when renting a room. Hood River didn't require this; they required owners to prove the dwelling was their primary residence. He asked the AC for their thoughts on if they were leaning more towards Astoria or Hood River directions. Saxton thought they should be together because they were the same issues. Boxer agreed and said the purpose to limiting was to keep the viability of residential neighborhoods intact and keep housing stock for people that live in Newport.
- Connell said whenever there could be a definition to make it clear what a home share was, it should be done. She said whether or not there were separate rules for home share definitions was another issue. She thought a definition of a home share would take away the ambiguity and help everyone to understand the rules. Hanselman said it was important to define it to keep things easy when enforcing.
- Perry asked if the definition for home shares was limited to the owners who were onsite at all times, would the owners of those units that leave be defined as B&B. Tokos said this could be a standard put into place. He said a home share could be structured as a unit that was someone's primary residence. He said if the AC wanted to require the owner be present when they rented a room, it would be a development standard for home shares. Posner said it could be VRDs with sub definitions underneath it. Perry saw a difference between renting less than 30 days and commercial developments. She wanted to see VRDs that were commercial developments not be in residential zones.
- Michel proposed home shares as primary residences that occasionally offer less than 30 day rentals. She also felt home shares should fall under the VRD rules. Dailey said over time we may develop different rules for different classifications. She said one of the reasons to divide out classifications was so you could determine if there needed to be different rules, even if it happened over time. Tokos restated the AC had a desire to see one or more different levels of a home share definition. He asked if there were other definitions of interest to the AC. Windsor noted that there hadn't been a

discussion on whether or not they wanted owner occupied home shares to have the owner onsite while it was rented. Tokos said it would be covered under residency requirements.

- Ferber asked if an owner was living in a house and renting one of the rooms, would the room be inspected. Tokos asked Lease how he approached these inspections. Lease said he would inspect the entire home. Rampley said when the manager resides in the home, it was considered a private residence. Ferber asked how it was defined when the room had a separate entrance. Tokos referenced a current unit that had a private residence, a VRD, and long term rental in the same package. The VRD portion would be considered a separate dwelling unit and would be inspected as a separate unit. Ferber said requiring the entire house to be inspected on a regular basis could be a mitigating factor. Michel asked if there was a difference in license applications between renting a whole home or just one bedroom. Tokos said it was treated the same. If there was a portion of the dwelling that would be rented and met the parking requirement, they could be licensed.

Tokos covered safety next. He noted the issues and observations. Tokos said the Fire Department was addressing inspections under the fire code, not building codes, and were choosing to address it locally.

Discussion Items:

- Andre asked if there needed to be a fee for the fire department inspections. The AC agreed it was important.
- Hanselman said he talked to Harvey to see if the inspections had taxed his staff and budget. Harvey would only say they were a small department and doing the best they could. Hanselman thought inspections should be paying for themselves. Tokos thought it was a fair point and said it would need to be expanded on a fee schedule. He explained that VRDs and hotels/motels got the services annually. If VRDs were required to do this, it also needed to be a requirement for hotels/motels. He said if there were fees for VRDs then hotels/motels would also need to have fees. He said the City Council asked the Fire Department for recommendations on fee items and the AC shouldn't be surprised if the inspection fee got included in a bigger issue with Fire Department fees.
- Boxer pointed out she was running a business and expected to pay certain fees. Andre thought there could be a service provided with a premium to homeowners to have the Fire Department look at home to say what was needed. Saxton noted that all businesses were being inspected by the Fire Department and if charging for one, then had to charge for others.

Tokos said in order to meet the time limits of the remainder of the meeting would the AC like to continue the discussion at next meeting. The AC agreed.

8. **Public Comment/Questions.** Bob Berman addressed the AC and handed out a report he prepared to the AC and reviewed what was included in the report. He noted he wanted enforcement looked at and asked the AC to review the memo.

Steve Lane and John Vann addressed the AC and handed out a report concerning their residential neighborhood. They said they wanted to see a moratorium or limit on VRDs in residential areas.

9. **Adjournment.** The meeting adjourned at 3:00 p.m.

Respectfully submitted,

Sherri Marineau
Executive Assistant