

MINUTES
City of Newport
Vacation Rental Ad-Hoc Committee Meeting #4
City Hall Council Chambers
Wednesday, March 14, 2018

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

Planning Commission Liaison Present: Jim Hanselman.

City Staff Present: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

Public Members Present: Rob Croteau, Bob Berman, Steve Lane, Veronica Willman, Wendy Engler, and Chris Ehrmann.

1. **Call to Order.** The meeting was called to order at 1:05 p.m.
2. **Disclosures.** Tokos asked for conflicts of interest. Saxton, Ferber, and Michel disclosed they had potential conflicts of interest. Dailey, Hanselman, Perry, Connell, Escobar, Posner, Boxer, and McElroy stated they had no conflicts. Perry asked how the Planning Commissioners could vote when they had conflicts of interest. Tokos said they only had a potential conflict. Perry thought it was a conflict. Tokos said it was potential and noted that the PC would only be doing recommendations and the City Council would be doing the voting. Perry asked if the PC made recommendations, did they have to declare potential conflicts. Tokos said yes. Connell asked if the AC members were subject to the public meeting rule on meeting with other members outside of meetings. Tokos said if there were two to three people meeting, it wouldn't be a problem. If there was a majority, the meeting would have to be noticed and it was subject to the rules. Dailey asked what a quorum was for the AC. Tokos said seven or more.

Ferber asked if the AC was making decisions, how was information gathered and processed. Tokos said he was trying to find out what the AC wanted to see for draft amendments so he could bring a draft code to the AC. Ferber asked if submitted materials were being formulated into the considerations. Tokos said they were a part of the consideration. Escobar thought the AC should gather information before making decisions. Tokos said he would be gaining feedback for recommendations from the AC and then bring the final recommendations back to the AC to review and make changes. Connell said she was concerned about this. She understood that the AC would be gathering data and when there was a comprehensive picture, they would start into the policy drafting of the code. She was concerned that there were missed opportunities to let the AC talk about where they were in the process. She wanted all the information presented first before looking into recommendations. She felt this would allow the AC to see all the information before making recommendations and help them come to consensus. Posner agreed with Connell and felt there should be time to share how the regulations worked. Tokos said if at any time the AC felt there wasn't enough information or time to look at topics, to let him know. Connell asked if what Tokos was saying was that he wanted the AC to continue absorbing information rather than giving recommendations to get the best understanding of all the elements. Tokos said he would honor the request to allow the AC to understand all of the elements before they gave feedback. Michel said this was her understanding of the process. Tokos said he had a mapping exercise that would help. Connell asked if Tokos was saying that he would get feedback from his mapping exercise and then the AC would have an opportunity later to have a back and forth for recommendations. Tokos said yes.

3. **Approval of Minutes from the February 28, 2018 Meeting.** Tokos asked for input on the minutes. Perry noted minor corrections to the minutes.

MOTION was made by Boxer, seconded by Michel to approve the February 28, 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 asked if the agenda picked up from where they left off of on the last meeting. Tokos said yes and noted that if there needed to be more meetings to pick up materials, the AC would have to decide on this.
5. **Committee Requests.** Tokos covered the committee request documents that were shared with the AC. He noted Escobar's submission and the Transient Room Tax information from the Finance Department. Saxton asked what online booking was considered. Tokos said most of them would be the ones like Hotels.com, Airbnb, Priceline, Expedia, etc. He said it was comingled room tax returns with most being hotels/motels, but noted that Airbnb would be VRDs.

Perry noted the mailing from Vacasa that Escobar shared and said she had received them as well. She said she had been getting a lot of these mailings even though she didn't have a rental. Posner said he also had been receiving these. Perry thought it was something to consider. Hanselman referenced an article in the New York Times about the expansion of Airbnb and VRDs. He said it reported that some of the VRD services would become upscale, with food and bedding available in rentals. Hanselman said they were looking for upper end homes and this would put more pressure on residential neighborhoods. Saxton said she received multiple advertisements for all kinds of things and the mailings were free enterprise. She didn't see how restrictions could be put on advertising. Posner said the entities who came in and bought lots of homes was in question. Boxer said this was just an indication that people were soliciting and there was a potential of an influx of new VRDs. Michel noted that these solicitations were being sent out in the Yachats area, even though they didn't allow more VRDs. Ferber said Lee Hardy had 25 VRDs. He said Vacasa enticed her clients away when they came into the market, and the VRDs became poorly managed. Ferber said he thought the cleaning staff for Vacasa were responsible for soliciting visitors. Saxton said this was wrong because her rental was run by Vacasa. Ferber asked if they had been responding to issues. Saxton said there was a recent issue that they fixed quickly and they did manage it well. Ferber said that wasn't his experience. A discussion ensued regarding how rentals were being managed and the problems with VRDs being traced back to poor management. Ferber noted that VRBO had recently been purchased by Expedia and they were giving the illusion that they were managing the unit and doing the cleaning. He said they were leaving it to the owners and managers to deal with the subsequent realities of who was renting the units. Tokos asked if what the AC was saying their concerns were was that Newport had an attraction for VRDs, VRDs were being pushed throughout the City, and the AC wanted to delve into advertising restrictions. The AC agreed.

Tokos reviewed the Transient Room Tax charges. He said the RV/tent setups were from the South Beach State Park. Tokos noted that individuals and management were remitting room taxes and the largest amount of room tax were from hotel/motels. Connell asked if the figures were from the fiscal year numbers from July 2016 through June 2017. Tokos said yes. Perry asked what the total was for the year. Tokos said it was about \$3.8 million. Perry asked what FYE meant. Tokos said it was Fiscal Year Ending.

- Options for Amending VRD Regulations.** Tokos reviewed his presentation on options for amending VRD regulations. Escobar asked if they should add a discussion on which zones VRDs should be allowed in. Tokos said it would be discussed later in the presentation. He said they AC would start with the rationale on why they were doing a limitation of VRDs in particular areas, then look at development standards to put in caps to achieve the purpose, and then delve into the ways to achieve the objectives. Connell said that one of the meeting objectives was adding zoning and she asked to add it as part of the meeting objectives. Tokos said his slide wasn't updated with this and he would put it back in. Perry asked to add lighting in the noise category for meeting objective topics. Tokos reiterated that what he had heard was that the AC had a desire to have home share defined in definitions as a distinguishing factor in the amendment, and have it treated differently than a VRD. He said the AC might have to define owner and ownership related regulations. He said there was an agreement for the five bedroom limit for VRDs to be a development standard. Posner wanted that local contact definition added. Dailey said there needed to be a definition of what the difference between hotel/motel and VRDs were. She noted the separate units that were licensed as VRDs under a hotel/motel and thought they needed to be defined because they looked like they were a motel. Tokos said there was an amendment in 2015 that specifically addressed this. He said if there was a common rental pool, it fell under hotel/motels and if it was an individual owner it fell under VRDs.

Hanselman asked about the definitions that suggested five bedrooms would be the limit for VRDs. He said didn't recall talking about it. Boxer said the AC talked about it at the first meeting. Tokos said it also correlated to the building code because over five bedrooms made units fall under commercial codes. Hanselman thought that there was a discussion that even if there were five bedrooms it was commercial and felt it was important to address the point on what definition the AC was going to use. He said the last census study showed that less than one percent of the homes in the country had seven or more people in them. He didn't think there was a consensus that the AC agreed to a five bedroom limit for VRDs. McElroy remembered Tokos referencing the limit. Tokos said parking requirements were a part of the consideration. Connell said the AC hadn't discussed occupancy and it was a different issue to come to consensus on. Tokos said he was talking about commercial codes not commercial use. He said the residential code was designed to say people were living in the unit. VRDs were a newer phenomenon in the context of building codes and they were trying to come up with a break point. McElroy noted the VRDs in Newport that were currently endorsed with an occupancy of 18. Tokos said he could break out the existing VRDs in an occupancy list and noted that it would show a lot of the VRDs had occupancies of six or eight. A discussion ensued regarding VRDs using extra bedrooms that weren't licensed and how to enforce.

Tokos covered Safety. Hanselman asked if the rules required the units to be ADA compliant. Tokos said it wasn't a requirement under the residential building code but was for commercial. A discussion ensued regarding ADA and fire sprinkling requirements for commercial and residential properties.

Andre joined the meeting and disclosed he had a potential conflict of interest.

Tokos reviewed the Parking Requirements next. Connell said that a VRD was a business and most of the time when there was a business it would be in a commercial zone which had rules on accessibility for parking lots. She thought this was a hot topic for VRDs and felt parking created adverse impacts on neighborhoods. Connell said she liked Yachats and Lincoln City's approach that said a business couldn't adversely impact the community with parking. Escobar said maybe it could be addressed by requiring VRDs to have off-street parking for the number of guests. Connell said if approaching it that way, we could identify that it needed to be addressed and just because it was public parking, it couldn't be used without regulations. Posner asked if she was just talking about overnight parking. Connell said parking at all times. Posner said residents could have get-togethers where they had guests who park on the street. Connell questioned how often these events would be happening. Posner said some could have people every weekend. Hanselman said it was easier to manage if it were neighbors but was harder for VRDs. He said this was why people didn't want VRDs in R-2 zones. Andre disagreed because neighbors could be negative toward each other regardless. Hanselman said if off-street parking was an issue, some off-street parking wouldn't be good areas for people to park their cars. Andre felt part of it was about the adverse impact of parking and a prescription had to do with what it meant to have a local contact present. He felt this needed to be addressed. Tokos said the one off-street parking space requirement per bedroom was for overnight occupancy and why they would see overages of the maximum overnight occupancy. He said if the AC wanted to delve into narrow streets and lack of off-street parking, they might want to try to tackle it by defining what off-street parking was.

Saxton asked if the City knew if most property managers were recording the license plates of their renters. Tokos said they were required to do this as part of their guest registry. Boxer said some jurisdictions had definitions of what size the off-street parking spaces needed to be. She thought a definition of parking area size was important. Michel shared her experience in different municipalities with parking sizes. She believed there should be off-street parking, not parking on the right-of-way. She recommended defining the size of a parking stall, defining how many spots per occupancy, and requiring all parking to be off-street. Ferber asked if the substandard lots in Nye Beach were commercial. Wendy Engler interjected to say she wanted to point out information on the Newport Design Review. Ferber told her that she wasn't allowed to talk at that time. Engler then said that Ferber should continue with his misinformation. Tokos said a significant part of Nye Beach was C-2 zoned and the balance of the Nye Beach overlay was R-4 with a little bit of Public. Ferber asked how they would deal with parking with a substandard lot. Tokos said currently the regulations were set up to have one off-street parking space per bedroom rented. He said there was a conditional use process to ask for relief of parking spaces. There had been cases where they were granted relief in areas where there was a sufficient amount of on-street parking. Tokos said the denials happened because the Planning Commission felt the property had space for off-street parking.

Connell asked if conditional uses were part of the process for VRDs in Nye Beach. Tokos said it they had to go through a conditional use process before they could apply for a VRD endorsement. It would then be noted that they were exempt from the requirement because of the conditional use. Escobar noted that conditional uses were noticed out to surrounding property owners for their input. Tokos said that if someone wanted relief from any standard, not just parking, they would have to receive conditional use approval through the PC as a part of a public noticed hearing process. Connell asked if parking relief for VRDs was a conditional use, not a variance. Tokos said it was conditional use for VRDs. He said at the time of regulations, conditional uses were set up for odd circumstances. A discussion ensued regarding the process for VRDs to apply for conditional use permits. Perry asked if it was possible to not allow conditional uses as part of the process for VRDs. Tokos said he didn't know if it needed to be provided, but in a land use parlance it was considered a variance. He said in a variance they would have to demonstrate hardship, which was very hard to do. Perry said that would be a non-gray area and was in favor of it. Andre said having the right to make a request, whether the decision was accepted or denied, was a good thing. Michel felt it was important to have the appeal process in place. She said it was allowed across the board in land use issues outside of VRDs. Tokos said when it was non-discretionary, there would be standards. He said it wasn't uncommon to have an option to give an alternative if they didn't meet the standards. Hines referenced a daycare in Newport as an example of this and felt it was wrong to allow for one use and not for another. Connell wanted to have clear objective standards. Andre said having a requirement for parking for the number of people allowed in the unit was a better way to have an impact on the concerns. Saxton asked if the VRDS with conditional use approvals had any issues. Tokos didn't know. He noted that there hadn't been any requests for relief from any of the other VRD standards. Michel clarified that her feelings on restricting parking was that there needed to be a deeper exploration of it as a group.

Tokos reviewed photo examples of off-street parking scenarios and said he was looking for the AC's feedback. He covered streets that were non-conforming and examples of clear parking areas in the right-of-ways that weren't blocking travel lanes. Tokos then covered ROWs not used for public road purposes. Connell said in this instance they were typically dead end streets. She said people would just back up in those areas instead of turning around, which was dangerous. Connell thought they should require VRDs to have space to be able to turn around safely. Posner said safety for fire vehicles should be considered. Tokos asked the AC if they thought parking on a defined driveway that extended in the ROW was an issue. Dailey said it was a question on what was going to happen to the roadway, which was a different issue from VRDs. She said

it depended in the variables in the neighborhood and felt the easy way to address it was to say parking had to be entirely on the property. Connell said the travel lane in the examples were where the asphalt was and the parking wasn't obstructing the street. She said from that perspective there could be a little leeway because her issue was with obstructing traffic and VRD users traveling safely. Dailey said this was where a conditional use could be the determination. Michel asked for Tokos' opinion on how likely it would be to see undeveloped ROWs being developed. Tokos said it was fair to say it was unlikely because the funding wouldn't be there to put in full streets with sidewalks, curbs and gutters. Michel said the AC needed to look at how it could narrow down what they were deciding on, how things would be governed, and then decide on if they needed to leave an opportunity for a special condition for parking instead of abusing the system to get away from needing additional spaces. Andre asked if it would be possible for a neighbor who was upset about a VRD to request a review of the property to have a fairness mechanism. Boxer thought it was a good point to be able to revisit parking and landscaping requirements Andre said it might put pressure on the owners to clear things up before it went to a hearing process. Hines said using the City website for complaints was a good idea to be able to track if there were a pattern of problems for VRDs. Escobar asked if the AC was in consensus to address this in both the optimistic level and the parking space issues in terms of minimizing the impact on homeowners. The AC agreed and added that landscaping should be included as well. Dailey said in terms of enforcement, she thought there should be some possibility to divert some kind of mediation, and have a discussion in a formal way to work things out with neighbors before it went to a hearing.

7. **Review Updated Committee Meeting Schedule.** Tokos reviewed the updated schedule and said it looked like there needed to be some additional meetings added to the schedule to cover all the topics. He noted that the AC would have a chance to have more of a discussion on enforcement. He said the current meeting's discussion would be carried over to the next meeting. He suggested adding in two additional meetings to building out discussions between meetings four and six. The AC was in agreement.

Boxer noted that she had been working on a spreadsheet that showed the variables on how other jurisdictions handled different issues. She was working on have a document that showed how everyone operated and would try to have a spreadsheet of ready to share with the AC at the next meeting. Escobar asked that when the AC moved into a discussion of locations, could Tokos give the AC a synopsis of what the different zones were. Tokos said he planned intentionally not to have zoning on the mapping exercise for the AC. He said it would be used to see what areas needed VRDs restricted and said the AC would have a chance to compare the mapping exercise with the zones at a later time. Connell was uncomfortable with doing a mapping exercise without zones, and felt it was important to have them included. Tokos said the thought was to do a map that didn't have a lot of other information that the AC would have to factor in; do overlay maps with zoning added; and then make adjustments. Saxton reminded the AC that Tokos had given a zone map already. McElroy said she went through the violations and broke them out by zone and thought it would be useful to have them on the maps as well.

Hanselman asked for a count of residential units west of Hwy 101. Tokos said it would be a manual count and wanted to hold off on it until target areas were known because it was time intensive. Hanselman thought it would be helpful to have a discussion about different zones and their expectations. He also wanted to discuss why people had invested in these zones and what they were expecting. Tokos said the AC would have an ability to reshape zones and do overlay zones. He said there was a lot of ways to design this. Tokos said the mapping exercise would be used to know where they were going.

8. **Public Comment/Questions.** Wendy Engler addressed the AC and apologized for disrupting the meeting. She was confused about why the Nye Beach Overlay zone wasn't being recognized. She referenced what the Nye Beach overlay was and the restrictions it put in the zone. She thought the overlay zone was really important.

Rod Croteau said Max Fischer addressed the AC and handed out a report to the AC on the influence of VRDs on affordable housing. They asked the AC to seriously consider their report. Fischer reviewed the overview and said if there was a shared goal to diversify the economy and attract people to the community, we needed to provide housing for them. He talked about his own struggles on not being able to find housing in Newport for over a year and a half. Fischer gave examples of professionals having difficulties finding housing. Boxer noted that she sat on the Oregon Coast Aquarium Board that had five openings that had several people wanted to move to Newport but couldn't find housing. She also noted that her staff couldn't find housing and felt it was impossible to run a business in Newport because of this.

Willman addressed the AC and said she was glad to see the housing influence brought up. She thought that the neighbors in areas that were being noticed for conditional use decisions didn't have as much concern about the decisions when most of the homes that were noticed were VRDs. She referenced a neighborhood where most of the homes were VRDs with only one home having an owner that lived in the home. She asked the AC to look at considerations for conditional uses. She added that she liked it when VRDs had signs that stated the units were vacation rentals and had information so that neighbors clearly knew who to call with issues.

McElroy noted that she wanted the AC to still review the Sonoma County report.

9. **Adjournment.** The meeting adjourned at 3:10 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant