

MINUTES
City of Newport
Short-Term Rental Implementation Work Group Meeting
City Hall, Council Chambers by Video Meeting
Friday, May 7, 2021

Work Group Members Present by Video: Cynthia Jacobi, Spencer Nebel, Bill Branigan, John Rogers, Sandra Roumagoux, and Jamie Michel.

Work Group Members Absent: Dietmar Goebel.

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

1. **Call to Order.** The meeting was called to order at 2:02 p.m.
2. **Review and Amend Agenda as Needed.** Tokos reported that Jacobi requested an additional agenda item be added regarding 4th of July Fireworks. This would be added as Agenda Item 6.F. No other additions were heard.
3. **Approval of Minutes.** Motion was made by Sandra Roumagoux, seconded by John Rogers, to approve the January 7, 2021 Short-Term Rental Implementation Work Group meeting minutes as written. The motion carried unanimously in a voice vote.
4. **Public Comment.** None were heard.
5. **Committee Discussion Items.**
 - A. **Update on Licensed Short-Term Rentals, Cap, and Waitlist.** Tokos reported that there were STR applicants for open licenses that were still being worked through. The city had been working through the short-term rental (STR) waitlist, which was currently around 60. If the cap number wasn't adjusted, the thought was that they would work through a third of the waitlist every year. This meant it would be two to three years before someone on the list would get a license.

Roumagoux asked if people were upset when they were told that there were 60 people on the waitlist. Tokos reported that there weren't many were upset. Most people were looking to buy properties in Newport to use as investment properties as vacation rentals.

- B. **Short-Term Rental Enforcement Update.** Tokos reviewed the ordinance in respect to the STR at 1330 NW Spring Street that was a significant discussion at the previous meeting. He noted that the city needed to improve how people could paid fees online. Because there are limited online payment options, the city ran into instances where people tried to use them in a way they were not designed to use. The owner if 1330 NW Spring Street had made a large amount of payments through the utility payments, which were larger than what she needed to pay to cover the utility fees on her STR units. Also, the lump sum paid did not line up with the utility bills and the renewal fees totals. Since the owner had submitted all of the required paperwork for her renewal, the city determined her application was complete and requested she not pay her fees online again. The surplus from the utility payments she made were applied to her business license fees, and it was resolved. If this had been resolved earlier, there wouldn't have been problems with citations. There had been three citations for unpaid business licenses issued to the owner, and a court date was set. This went before the court judge before the city was able to confirm the payments had been made. The city's municipal code shows that you shouldn't enter a default judgement when someone hasn't been properly served, didn't know they had a citation, and didn't show up in court because of this. The city took a corrective step to set the court dates further out into the future. For someone who is served a citation and isn't cooperating, the resolution date with the municipal court would be a little later because the city needed proper confirmation that a citation has been served. When sending out letters certified

mail, it took some time to get either the confirmation card that it had been received, or the rejected certified mail back from the postal service. The city needed to be realistic with people in terms of resolution of issues based on a citation, particularly when the person was fighting the citation. It took some time to get these resolved and make sure the person getting the citation was getting their due process.

Malloy reported that he met with the municipal court judge after this incident, and they identified some immediate adjustments they could do on citations for court dates that were four weeks out. He explained the judge wasn't interested in seeing multiple citations for repeat offenders when the first citation hadn't been adjudicated yet and had an opportunity to go to court to plead their case. The adjustment had been made, and the Community Service Officers (CSOs) would make a note if things that were still occurring and be able to testify on them. They would then leave it up to the judge from there. Malloy reported that he had met with the City Attorney and determined there were multiple options to serve a citation. The easiest way was to deliver it in person. They also defaulted to doing certified mail, but there was no requirement that people had to accept certified delivery. The Police Department adjusted the processes so they would send both regular and certified mail, because they knew regular mail would be delivered. Malloy added that some people were uncooperative and would do everything they could to not be served. Until they are served, they would continue to operate no matter how many cease and desist letters were issued.

Tokos mentioned that the 1330 NW Spring Street property had an earlier citation they had entered an earlier plea agreement with the municipal court on, and was fined \$125. The fine had been paid before it went to collections.

Tokos reviewed the email from Carla Perry concerning the incident reports she had submitted and the Work Group comments at the previous meeting. He explained that from a staff perspective, STR issues were contentious and people could get upset or angry about them. When looked at on a staff or committee level, their job was to be as objective and level as they could, assume all comments made were done with good intentions, and approach it with that in mind. There was less control of how comments from property owners and their attorneys upset other audience members. The committee and staff should respond to their comments in an even keel and professional way as possible.

Roumagoux thought it really mattered that the Work Group and staff not discuss these items outside of the meetings because it could become a mess. Jacobi thought that when the code enforcement system was driven by neighbor complaints it was easy to target those who've complained. She hoped this would settle down and thought they should be able to make it work without contention. Rogers thought it was important to recognize that nobody wanted to have to express a complaint, and noted if it was an issue that was easy to resolve they would never see it. It was important to recognize these complaints and give the same considerations to them all.

- C. **Online Payment of Business License and Room Tax Assessments.** Murzynsky reported they were working on a process for electronic payments through a service called Invoice Cloud. They would take in the visa, court, and business license payments. It would be a year out before the room tax payments could be done through the system. The system would help eliminate what had happened with the STR at 1330 NW Spring Street who paid their business license fees under their utility payment account online. Murzynsky thought the new system would stop this from happening.

Murzynsky noted that the State told jurisdictions that they wanted room taxes collected by the State like gas taxes were done. The city was in favor of this. The state would do the room tax collections, the enforcement of nonpayments, and audit when the audit team felt something was wrong. They would provide quarterly data on individual units, and would distribute the taxes back to the city. The cost was \$43 per person, per month. An ordinance would have to be changed for this to happen, and Murzynsky didn't know if this would affect the STR Ordinance. It would take about six to seven months to complete a signed IGA with the State.

Michel asked if the city would contract with the State at a cost of \$42,000 a year for room taxes from hotels, and not STRs. Murzynsky explained that it would be collected for anyone that paid room taxes. Michel wanted the city to be able to see the exact taxes being paid per unit and asked if this would do that. Murzynsky explained the

State would be able to give a specific address for customers filing a transient lodging tax return. The State worked with Airbnb to get the information on individual STRs that the city couldn't get directly from Airbnb.

Tokos asked if implementation of the business license payments would launch on the next renewal cycle. Murzynsky explained it wouldn't happen for business licenses that year because of a few problems understanding how it worked and to work through a security issue. They might be able to load it in July but the implementation issues meant he didn't have a deadline for this. Murzynsky hoped to start in July. Tokos noted if it launched early in the renewal period they should let the STR owners know. Murzynsky reported that as soon as they had a definitive deadline, they could start that side. Tokos asked when they thought the partnership with the State would be executed for room taxes. Murzynsky reported he didn't have an answer for that yet. The hardest part would be lining up the city's ordinance with the State ordinance.

- D. 30-Day Rental Requirement.** Tokos explained that in 2020 they built flexibility for the 30-day rental requirement into the ordinance for people who couldn't rent or shouldn't be renting early in the pandemic. The language allowed the City Manager to reduce the required days to 15 for all STRs in 2020, and entirely for the Nye Sands condos. There had been another request from a STR owner to ask for a reduction in the rental day requirement because of the continued pandemic. Rogers thought this made good sense. Michel was okay with this. She was in favor of rentals showing some use so that people didn't obtain licenses and hold them as a way to keep a license when there were caps in place. Branigan thought that since the pandemic was still going on, anything more than 15 days was an injustice for owners. He thought they should approve the 15 days. Tokos would pass this along to the City Manager and would look to send a formal memo with in the STR renewals.
- E. Developing STR Ordinance Implementation Work Group Recommendations.** Tokos reported that he didn't have the financials that Rogers requested because he needed clarification on what he was looking for. He understood that the Work Group wanted an outline of what it cost the city to administer the program. Rogers confirmed this was correct. Tokos explained this was hard to quantify and wasn't something they tracked. He could put the information together as best as they could so the Work Group could have a discussion on it.

Tokos noted that the Work Group didn't have a chance to give feedback concerning emails they had received in February 2020 from public members listing a set of recommendations. He asked the Work Group to think about if they needed to have a discussion on it at this meeting, but reminded that it was a loose end that needed to be revisited. Tokos reminded that any formal action taken on this would need to be done in a manner where the public members had a chance to participate. He added that if there was anything that needed to be discussed about Cheryl Connell's email they could do that as well.

Jacobi asked for clarification on the first bullet point about voluntary compliance instead of putting the hammer down. Tokos noted that the principal for voluntary compliance was generally a large percent of those who were in noncompliance would come into compliance when the issue was raised. It was important to approach it that people were acting in good faith until they were no longer acting in good faith. Tokos thought this was where the principal of voluntary compliance came from. This would then reserve city resources for when the city had to go the hard route on enforcement.

Michel asked if the language should be changed from voluntary to mandatory. Tokos thought Connell was expressing a frustration and wanted to see compliance resolved in a timely manner. Folmar pointed out that everybody's idea of "in a timely manner" was different. Michel thought that if voluntary compliance wasn't done in a specific time, then in her mind they had a strike against them. Tokos noted the STRs that were licensed had a very strict strike system. The leniency was on strike one. Strike two was suspension and strike three was revocation. Most of what was being vocalized was about why this complaint didn't get a strike. In situations that the CSO couldn't verify things, he couldn't give a strike. The unlicensed STRs were different. The cease and desist letter would be a first strike. Michel thought that if they weren't licensed they weren't a STR and felt the STR world took hits with things that happened with non-licensed activity. Michel thought the Work Group was the STR Ordinance compliance group and non-licensed rentals fell under business outside of this group. She wanted to give Connell the opportunity to clarify to make sure the Work Group was understanding her question

properly. Tokos explained voluntary compliance was in the realm of the unlicensed rentals, and the licensed rentals had a strike written into the ordinance for them.

Tokos reported that another issue was the question on if they were adequately staffed on weekends to address the issues that typically came up. Michel thought as a city they had to have compliance officers in place so they could respond in a timely manner. She was in full support that there be officers available in the evening and weekends. Michel asked if TCB Security could respond on the ground. Malloy noted contracts with them in the past were good but their contracts were expensive. Adding this to the cost of the contracted third party vendor and the CSO salary would put them too far into the red. Michel just wanted to make sure they had considered this as a possible idea. Malloy thought it was something to look at if the CSOs weren't able to keep up with the workload.

Jacobi asked how feedback was being given to those who put in complaints. Folmar explained they would give feedback if the complainant gave their contact information, and reviewed the steps he took to contact complainants.

Branigan wanted to talk about the comments about the five year phase out being too long. Tokos thought that Connell would be happy with a five year phase out because there currently was no phase out of licenses. The City Attorney thought that if the city gave less than a five year phase out it would mean a potential taking claims for those who had a licensed STR taken away from them. His view was that five years would provide sufficient time to recover investment backed expectations. Michel reminded that the city currently did not have a phase out of licenses. Tokos thought the Work Group might want to take a look at if without a fixed based phase out in place, were STRs naturally phasing out in a manner that the Work Group was comfortable with. Roumagoux thought it would be helpful to know this. A discussion ensued regarding sales of STRs and the licenses that had been processed out due to sales.

Rogers reported that he would have a hard time supporting most of the bullet points under policy and enforcement, and transparency reporting because they were vague and he didn't understand what it really meant. Some of the things in the bullet points were too vague for him, such as the question about at what point the hour to respond started. Rogers thought the second bullet item under enforcement seemed to be already addressed by the State system of collections.

Rogers also had questions about the bullet point on property owners submitting a complete log to be compared against the city log. He asked who would do this. Tokos thought that if there was a vast number of complaints to a particular issue, then this was something the Work Group needed to focus on and city staff needed to come up with solutions because it was a problem. The Work Group needed to ask themselves if when there was a relatively modest number of complaints, did the response warrant requiring people to submit logs and prepare complaints when there had only been a small number reported in the last quarter.

Tokos reported that the short-term rental waitlist wasn't something that had been vetted in the ordinance. He pointed out the list of the current procedures city staff took to offer spaces for new licenses. Tokos thought they should work on a framework to address this. He noted they calculated the open licenses annually and thought the annually timing worked well.

Branigan asked if there was any complaints on how the waitlist was currently being done. Tokos reported that one frustration was when applicants were hit with fees because they paid their fees early and then they were working to get their licenses issued close to the renewal period. It was difficult to know when an individual completed their licenses. Michel asked if they should prorate the fees. Tokos explained the city had prorated business licenses on a six month, half year rate because a floatable prorate could get complicated. They could look at a fee structure to prorate for those that rented fewer than six months before they had to pay their fees again. Roumagoux thought the fees were affordable and thought that if the fees were more expensive it would warrant this.

Nebel enter the meeting at 3:10 p.m.

Michel asked how long owners had to get to their license after they were offered one. Tokos explained they had a period of time to apply, then another period of time within which to modify the unit to get the unit to a point that they can pass inspections and actually rent it. Michel thought this was too long a period of time for this. She asked if it was common to have physical modifications that needed to be done. Tokos confirmed that there were common issues that owners had to fix such as egress windows. Michel asked if an owner could get a license for the part of the unit that met the safety inspections and then add the other areas in the rental when they were brought up to par. Tokos confirmed this could be done. Michel thought the timing was too long and wanted to workshop this with the Work Group. Tokos noted that it sounded like the Work Group wanted to work out key pieces of the waitlist in the ordinance. Michel wanted to do this. Jacobi thought they wanted to be fair to people. Tokos reminded the Work Group to consider that sometimes owners would have tenants in the rentals that needed to be changed before they could use the unit as a STR. This took time to vet, and 30 to 60 days wasn't always enough time to do this.

Rogers reminded that the city already had a waitlist process in place that was being implemented. He thought they should look at the pieces when there were problems and felt it was already worked out. Rogers thought if city staff saw areas that needed to be worked out to make it more clear, they should do so. Roumagoux reported that she hadn't heard any gripes from the public and she agreed with Rogers.

- F. City Coordination with STR Owners Regarding Fourth of July Fireworks.** Jacobi thought fireworks had been problematic at all times of the night and she also had concerns about the fire hazards of fireworks. She felt this was a problem for people who lived in Newport year round. Jacobi thought they should ask renters to be respectful of fireworks in neighborhoods and during the fire season.


Roumagoux noted that fireworks typically started up in June. She did a ride along in the past with police officers who confirmed that fireworks were hard to enforce. Roumagoux wasn't sure what they could do because it was hard to find the people who were letting off fireworks. Michel asked if the police had any desire to put officers on beaches and in neighborhoods to try to be where the fireworks action was happening. Malloy reported this really couldn't be done because they didn't have enough officers to do it. They would respond to firework reports but it was difficult because when they responded they didn't know who let them off. They needed to catch the offenders red-handed. Malloy noted that the beaches already had a no fireworks rule. Michel noted that her management company had this in their rental agreements. She recommended the city require STRs post the fireworks law in their documents. Tokos thought they could talk to the Fire Chief to get information sent out to the STR owners to educate people. Michel thought this was a good idea and thought it could be somewhat helpful. Jacobi suggested putting something about this on the reader boards. Nebel noted they could look at renting a reader board in the future and see what kind of message they could get out for everybody. Michel asked if anything could be sent out in the reverse 911 service with a public announcement on concerns of fire season. Nebel thought they could have that discussion but it wouldn't be the city's call. This could be done during fire season and there needed to be an emergency to use the system. Nebel thought they could approach the County on this issue.

Michel reported that her management company required owners to have a landline at the rental so they would get a notification if there are any issues or emergencies. Malloy thought they had a few options to get messages out through social media and a monthly news letter from the city. He didn't think the reverse 911 would go over very well but they could ask. Michel suggested emailing flyers to STR owners and in utility bills. Murzynsky thought they could add something the May 21st mailing and they could do it in June and hit boxes on July 1st. Nebel thought June was a better option. Branigan assumed they would put this in the News Times. Tokos was concerned that the June mailing would get to owners too close to July 4th. Michel suggested talking to fireworks stands about the rules.

Branigan asked about people firing off guns. Malloy noted that a lot of complaints for gun shots were fireworks. Officers had to be present in order to be able to enforce.

6. **Future Meeting Schedule.** Tokos reported the next meeting would be a quarterly meeting that he would send out a poll for dates.
7. **Public Comment.** None were heard.
8. **Adjournment.** The meeting adjourned at 3:36 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant