

MINUTES
City of Newport
Vacation Rental Ad-Hoc Committee Meeting #7
City Hall Council Chambers
Wednesday, May 2, 2018

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

AC Members Absent: Bonnie Saxton, and Carla Perry.

Planning Commission Liaison Present: Jim Hanselman.

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

Public Members Present: Bob Berman, Rod Croteau, Francis O'Halloran, and Chris Ehrmann.

1. **Call to Order.** The meeting was called to order at 1:00 p.m.
2. **Disclosures.** Tokos asked for conflicts of interest. Andre, Ferber, Hines, and Michel disclosed they had potential conflicts of interest. Dailey, Hanselman, Connell, Escobar, Posner, Boxer, McElroy, and Winsor stated they had no conflicts.
3. **Approval of Minutes from the April 18, 2018 Meeting.** Tokos asked for input on the minutes. Ferber said he wasn't at the last meeting but wanted it noted that as far as the discussion on eliminating the plus 2 for occupancy, he objected to it.

MOTION was made by Winsor, seconded by Connell to approve the April 18, 2018 Vacation Rental Ad-Hoc meeting minutes. The motion carried unanimously in a voice vote.

4. **Review Agenda, and Revise as Needed.** Tokos asked for any adjustments to the agenda. None were heard.
5. **Committee Requests.** Tokos covered the committee request documents that were shared with the AC. He passed out a memo from Charlotte Boxer about the C-2 zoning in Nye Beach. Boxer reviewed the memo about how she thought the overlay was meant to be a mix-use and felt it was being misinterpreted. She felt the VRD discussion needed to align with the Comprehensive Plan policies. Connell asked Boxer how she envisioned this could impact the work of the AC. Boxer said she felt the City had moved away from Nye Beach being mixed use to just commercially focused. Her interpretation was that the overlay was intended to bring a diverseness to the neighborhood and she felt VRDs were a commercial use that impacted the housing stock availability. Ferber said his interpretation of the creation of the Nye Beach Overlay was that intention was to have first story commercial shop spaces with residential apartments on top. He recalled that the intention was that VRDs were going to be considered a business and the mix of shop space and residential made it possible to accommodate parking. He thought the AC needed to retain a broader picture of how they originally got to this point for the Nye Beach Overlay.

Escobar asked Tokos to arrange for the City Attorney to speak about recommendations for changes in terms of modifying the endorsements people already had. Tokos said this would be picked up under the effect on existing rentals and when the AC would be weighing on. He said that there wasn't anything on the Comprehensive Plan that would prohibit the AC to set limits on the number of VRDs in the C-2 zone. He noted the overlay had been found to be compliant with the Comp Plan and didn't regulate VRDs specifically. He said parking in the Comp Plan was fine as adopted. Tokos said in land use planning, when you make major changes to the code you have to adopt it by ordinance and would include findings that relate back to Comprehensive Plan policies. Ordinances could be challenged if someone disagreed with the findings contained therein. If it wasn't challenged, it would be deemed consistent and acknowledged by the State. Tokos said the codes we have in the books were fine as is and where challenged. This didn't mean that there was anything in the zoning or Comp Plan that pinned us in one way or the other with respect to how the AC wanted to approach VRDs. Boxer said what she was saying was the plan said "to preserve and enhance the existing housing supply and encourage the increase of affordable housing in Newport." She said VRDs took affordable housing out of the housing supply and thought that putting limitations on VRDs enhanced what the City was attempting to do. Tokos explained the AC's recommendations could be weaved into the Comp Plan and make the necessary findings. He reminded that the Comp Plan policies were drafted intentionally to be broad, anticipating that there were a number of ways to achieve the overarching objectives.

Tokos reviewed the article Dailey submitted about Spain VRDs. Dailey said the primary problem was that the people who were promoting and using the VRDs for financial gain were not the people suffering the negative effects of the VRDs.

Winsor thought it was interesting that the density on the maps went from .2% to 7.4% in the somewhat more restricted areas and wanted to get a better feel for what the densities were in neighborhoods such as the Nye Beach Overlay. She said there was a Newport Peninsula Urban Design Plan that was done that carved out sections of Newport in certain areas and thought it would be a good way to look at certain densities in Newport. She requested a density in percentage of dwellings for the City Center, City Center North, City Center South, Waterfront District, Nye Beach District, Upland Residential District, East Olive District, and Oceanfront Lodging/Residential District areas. Winsor also requested VRD densities per percent of dwelling, in those areas. Tokos said he would see what they could find and said these were approximated numbers not an exact count.

6. **Review Updated Committee Schedule.** Tokos reviewed the updated schedule and asked for comments from the AC. He noted that on Meetings 9 and 10 the AC would start to see some code change language. Connell thought it was important to look at the enforcement perspective and asked Tokos to prepare what he thought the budget would be for a sustainable and diligent staff enforcement of the ordinance. Michel suggested adjusted licensing fees. Posner suggested volunteers managed phone calls for complaints. Connell said this was why she wanted Tokos to give his input on the budget and thought paid staff would have to handle complaints. Tokos said the AC should focus on the enforcement budget and fees would be discussed at another meeting. He said the Police Department (PD) had already proposed an additional code enforcement officer. It was not recommended by the City Manager (CM) but was included in the budget consideration. He thought it could be revisited in terms of a fee structure, if it was how the AC thought it should be resourced. Tokos said that he, the CM, and the PD, would be talking to a firm that did enforcement as a contract service to see what they could provide. This information would be made available to the AC. Michel requested a fee discussion added to the agenda. She thought there was a current breakdown in the internal processes. She said when the licenses were being approved and signed off, information was not going to the people in the City that collected the taxes. Tokos said he would try to have the Finance Director attend a meeting and discuss how collection happened on their end and what issues they were facing in their department. Connell thought an analysis on the time that would go into all aspects of VRDs should be part of the cost discussion.
7. **Options for Amending VRD regulations.** Tokos reviewed his PowerPoint presentation and the meeting objectives. He covered the density limitations and their issues and observations. Tokos said ownership based limits could be an issue when going down the path of putting in caps. He said different ownership wasn't always clear and could make it difficult. Boxer said Lincoln City had this issue with owners putting in as different members of LLCs and made it difficult to determine ownership unless you got the articles of organization to see who they were. She said if the AC were to limit ownership, they would have to find out what entity owned the property to determine ownership. Tokos didn't think there was an issue currently with multiple owners in Newport.

Tokos covered tenancy limits next and cautioned that tenancy limits would present enforcement issues. Dailey asked if tenancy limits could be changed to a certain time of the year instead of the number of days rented. Dailey suggested it be done by zones or by either days per year or a certain time of year. Tokos said they could do it that way and noted other jurisdiction codes had tenancy limits in areas that they otherwise wouldn't be able to do a VRDs. He said to keep in mind that it posed enforcement challenges.

Tokos reviewed homeshare requirements and asked for feedback. Michel thought they should be treated the same as VRDs with the rules being fair across the board. Winsor disagreed and thought if it was an owner's primary residence and was their main house it was different from having a business when using a property for a VRD. Boxer disagreed because a homeshare wouldn't be the whole house rented out. Michel said a person could own a home as a primary residence and not live in it. She said if the AC used primary residences as the factor, it wouldn't mean that the person would live there the whole year. A discussion ensued regarding residency and how it applied to homeshares. Escobar thought homeshares should be excluded from the discussion. Hanselman thought there could be a limit the number of people who could homeshare and require the primary owner must be there. Michel asked how this could be regulated. Hanselman said the jurisdictions who were successfully enforcing had rules that said it didn't make a difference who came to your house, it was the number of visits over the year. He said this allowed neighbors to collect data and share it with the City. Boxer thought a lot of the examples Tokos gave would put homeshares in a different column. Andre thought the definition of a homeshare needed to be precise. He cautioned against a feeling of "us against them" by saying that different rules applied if you lived and worked in Newport. Michel said to be careful when counting who the person was who stayed in the VRD and suggested finding a way to stay away from micro managing VRDs. Hanselman said what the AC was looking at was a set of rules that would shut down bad actors. Tokos said what they were talking about for homeshare arrangement was transit rental use for a profit that you were renting a room in the house instead of the entire house less than 30 days. Hines asked if homeshares would still have to do the same inspections and licenses. Tokos said yes because all VRDs were subject to the inspections. He said what the AC was trying to figure out was if homeshares needed to be on their own list.

McElroy noted that none of the VRDs on the complaint list included any homeshares or B&Bs. Tokos said this could be an argument that homeshares and B&Bs be put in the same list because having someone residing at the residence would mitigate issues. He said it also had to do with housing availability and how homeshare arrangements wouldn't take away from anyone residing in the community. You could make an argument that an entire dwelling unit dedicated for a VRD, wouldn't be available for anyone who resides in the community but a homeshare would, making it different. Michel argued that a room rented for a VRD was one that could be rented out long term to someone in the community. Tokos said not necessarily. Boxer thought homeshares were more like an Airbnb. She said the one by her house didn't have any problems like the other VRDs in her area. Ferber said this was an anecdotal, specific to the owner. (49;50) Michel asked what was important enough to the group to spend the money to set up two different sets of enforcement. Tokos said they were already doing this with B&Bs and VRDs. He said there was some interest in having B&Bs be different because they had an owner residing there and it was a unit with a permanent resident in the community. He said he wanted to get a read on if the AC thought it should be a possibility. Andre said the concern was about livability and if someone was renting a room it meant it was another room that wasn't available for long term rentals. Hines said homeshares were a business and she could see the argument both ways. Connell said a B&B had someone there who provided breakfast and went through an extra set of licensing for food service. It stood alone that way. She said they only had anecdotal information on homeshares and thought that if they were carved out as less restrictive there would be successful attempts to exploit it. Connell thought it would be an enforcement issue and would be exploited. Boxer said there were other jurisdictions that managed this through Airbnb. Tokos said he couldn't confirm that all of the B&Bs had residents that were there at all times. He didn't think it was reasonable to think that an owner would be present at all times at a homeshare.

Tokos said he could draft an option to allow homeshares to be put in the same list as B&Bs. Ferber asked if this would be for any zone. Tokos said yes, unless they felt it should be limited. Ferber thought it should be fair and felt it came back to enforcement. He thought the AC needed to know what the additional expenses would be to establish a cross the board criteria for affordable enforcement to know the ramifications. Tokos said what he was hearing was a difference in opinion that some would want to see an option and others didn't think it was appropriate to go down that path. He would put the option together and the AC could review it and make their recommendation. Escobar asked if B&Bs would be grouped with homeshares. Tokos said that was the thought. Connell thought the AC was creating a huge loop hole that could create enforcement issues and didn't think there was a great need for month to month rentals. Tokos said that wasn't what he was saying. He said it was fair to draw a distinction between a unit occupied by someone as a primary residence and renting out a room in that unit versus a unit that didn't have anyone there other than purely transient purposes. He said he was hearing that there were enough AC members who wanted to see an option to put code language in front of them to have further discussion about it. Hines asked if there was any way to say the unit was a B&B and only served prepacked food. Connell said this would take additional licensing. Michel thought it was grossly unfair of the AC, when the biggest complaint was a housing shortage, to say that a homeshare was okay and didn't take away from long term housing. Escobar argued against this because the owner would live there. Michel asked how they would know. Boxer said neighbors would know they weren't there and could report it. Andre said there were quite a few homes where this couldn't be determined. Escobar asked how many homeshares there were in Newport. Tokos didn't have a specific number. He said he would set up some optional language on homeshares for the AC to consider.

Tokos reviewed the mapping alternatives next. He reviewed each of the three alternative maps and the observations for each. Connell asked if phasing out was possible. Tokos said it could be. Connell thought a good set of enforcement rules needed to be part of it. Tokos said enforcement was a part of the equation for any of the changes and they had to be careful to be fair with the phase out. Connell asked if what he was saying was that Alternate 3 would make it less likely the City would be able to say VRDs would have to stop and would be grandfathered in. Tokos said it would be more of an amortization and more of a phase out like Hood River did over 7 years. Hanselman asked if there was a way to do it over a shorter period of time. Tokos said if there were a large number of VRDs in a prohibitive area, they needed to be careful on how they phased out. Where there were fewer VRDs in certain areas, it wouldn't be as hard to phase out because it impacted fewer properties. Posner like Alternatives 1 and 2. Tokos said all alternatives showed different perspectives and there could be a combination of each. He noted that for Alternative 3 he would recommend some sort of proximity standards.

Tokos reviewed the South Beach options map next and explained the restrictions in the area. Michel suggested allowing VRDs west of Highway 101 and restricting them east of Highway 101. Hanselman thought it seemed some neighborhoods were getting protection for no reason at all and others weren't. He noted that most of the maps said the AC was okay with VRDs in areas where the most concerns for VRDs had been raised to the City Council. Escobar said this was why he wanted to hear from the City Attorney to find out if they could change the rules for existing VRDs. Hanselman said that 70 percent of VRD units weren't managed by owners that lived in the city. Posner noted that the maps were only a part of the picture. Hanselman said the maps were leading to where they want to have VRDs. Escobar asked if there was a way to address this was with density limitations. Hanselman thought it could be part of the mix and thought there should be areas that needed to be excluded. Tokos said he didn't hear from the AC that the limited areas should be super permissive. He thought it would be smart to move a few different alternatives through and gave an example of Alternative 1 being structured as limited with a strong cap in the area. Tokos said it would be wise to have more than one option so something could be adopted, instead

of having the PC kicked it back to the AC. Ferber asked what the value would be for licensing that couldn't be passed on to the new owner. He felt it had an artificial value. Tokos said there would often be caps by unit, not owner. Ferber said weren't we talking about not grandfathering in VRDs. Tokos said you would often see the caps authorized for a specific unit. The license could be released if the owner decided not to do a VRD anymore and terminate it. Tokos said if the VRD ceased to be or was revoked then vesting went away. Hines asked if there would be a waiting list. Ferber suggested having a lottery. Tokos said there could be some variation of this.

McElroy asked for more information about phasing out VRDs and how it would work for proximities. Tokos said that Alternative 3 would mean a fixed amortization in those areas. They would be able to continue their VRDs within a period of time with the expectation that they would be phased out after a period of time. Escobar asked what the number of years that Lincoln City used for their phase out. Boxer said five years and this gave people time to adjust to it. McElroy asked if the timeframe was from when they started their VRD. Boxer said it was from the time of the ordinance approval. She thought that R-1 and R-2 zones needed to have strict regulations on density and proximity to each other if they would be allowed in those zones. Tokos said a proximity limit would be easier for R-1 an R-2. Hanselman said he was concerned about opening commercialization in R-1 an R-2 zones and the AC should consider how many other types of commercial uses should be allowed in R-1 zones. He wanted to see the integrity of zones keep to what they were originally designed as. Tokos said even prior to the new regulations VRDs had been permitted in R-1 and R-2 zones. He said they had tenancy limits and wanted the AC to be clear about this. Tokos said what he could do for Alternative 1 was to bring back a hard cap along with a proximity limit for R-1 and R-2 that fell within the limit area. Tokos stated that caps would be different for different scenarios. Ferber thought they should be separated between residential zones. Hines thought that Alternatives 1 and 2 had more of a dispersal and thought they should be kept spread out so they wouldn't be forcing a huge concentration of phasing out anywhere. Connell thought adding VRDs in higher density areas was less stressful than putting them in R-1 and R-2 zones because they were planned for density issues, and tended to be more where tourists wanted to go. Winsor said those areas would be where there was more affordable housing and would put pressure on R-3 and R-4 zones. Connell said that's why there would be a density limit. Tokos said there were R-1, R-2 and R-3 zones in all three maps. He said there could be proximity limits for R-1 and R-2 zones because there could be condos there. Ferber thought the maps were misleading because they didn't actually show where commercial or parks were established. He thought it would be fair to have another map to show what kind of balance there was with these included. He said a lot of the cross streets had high demand for parking and thought that any area where there were VRDs in R-1 and R-2 zones needed to be phased out.

Tokos said he could bring back all three alternatives with different hard caps and proximity limits for R-1 and R-2. He asked if the AC agreed that the Alternative 2 areas in yellow should be put in the prohibitive area. These were areas that didn't have VRDs currently and had a significant amount of housing. Boxer said if they eliminated in R-1 & R-2 and had them amortized out, it seemed it was leaning more toward what the zoning was then limiting in certain areas. Tokos said he was focusing on the maps he prepared. He said what he was hearing that where there were processes alternatives in R-1 & R-2, and there was a desire by the AC to see proximity space limits. Boxer agreed and said there could also be no VRDs in those zones after amortization. Tokos said he could put together proximity restrictions and in respect to Alternative 2, he could carve out areas that didn't have VRDs in them currently. Escobar thought Alternative 2 was designed to prohibit where there was traditionally workforce housing and said by injecting workforce housing, it made him think differently. Escobar asked if the Candle Tree area was included. Tokos said that area was prohibited in all three alternatives.

Tokos asked for the AC's thoughts on ownership limits. Escobar said it would be best to focus on the property itself instead of ownership. Boxer wanted to see it included. Dailey thought zone restrictions for ownership was better. Tokos said another way to look at it was the caps would provide a small amount of growth and then look at the exiting ownership setup. Boxer thought the reason Lincoln City did it was for fairness so that people didn't take all the licenses and others couldn't have them. Tokos asked if a cap was set up at 200 and the licenses tracked with the property, why would the AC care if there was 200 different owners or 50. Michel thought that if there was a hard cap, then individuals could only own so many VRDs. If there were really good rules and a good complaint system to eliminate the bad actors, we would make sure everyone was protected. Eliminating the bad actors would take a lot of the issues away. Michel also thought that if there was a hard cap they would have to limit how many VRDs a person could own. Tokos asked what was the compelling reason to do this. Hines said if the license ran with the units, why do that. She said the people who had invested in multiple units were running their businesses correctly. Winsor said the thought that people were only interested in nuisance actors was incorrect. People were concerned about affordable housing and their neighborhoods being upended. Connell said the issue was about hard caps, and if the AC should ask if they cared who got those licenses if they knew there was enforcement for the bad actors and no more or limited growth. She said she didn't care, she was more concerned about the hard cap and enforcement. Tokos said he would deemphasize ownership tracking piece and emphasize the hard cap. The AC agreed.

8. **Public Comment/Questions.** Rod Croteau addressed the AC. He said he observed that most people followed the rules in most municipalities but there were always bad actors. Most jurisdictions established owner-occupied and most looked at VRDs as businesses, opposed to dual purpose homes. Croteau said there were a number of municipalities that had occupancy

limits by defining that occupancy is all who were occupying the space. He said that enforcement seemed to be complaint driven and it could be done if they were willing to put the effort in and have a complaint driven system to monitor it.

Francis O'Halloran addressed the AC and said the one thing being neglected in the alternatives was that there were established neighborhoods, such as the Nye Beach area, that needed protection. She felt the residents in Lincoln County needed to be prioritized over tourists. O'Halloran said a lot of what the AC was talking about was brought up the previous year when the City Council discussed a moratorium. She reviewed Cathy Briggs' submitted letter that stated she thought a moratorium was needed. O'Halloran thought that what Ferber was reflecting was how things affected his own VRDs. She thought it was offensive and was a conflict of interest. She wanted him to think about what was best for everybody instead of how things affected him.

Bob Berman addressed the AC and handed out a memo to the AC. He sensed that a hard cap would be appropriate. He wanted the AC to consider that caps in restricted areas needed to be shrunk or disappear. Escobar asked when the AC was done with their review, would the PC take the AC's recommendations and reinvent the wheel and go over the issues again. Berman doubted it and said the PC might choose to select alternatives to forward to the CC.

Tokos noted that there wasn't enough time in the meeting to cover the policies and topic areas. He asked the AC to email him any notes they had on the list.

9. **Adjournment.** The meeting adjourned at 3:05 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant