

MINUTES
City of Newport
Vacation Rental Ad-Hoc Committee Meeting #8
City Hall Council Chambers
Wednesday, May 16, 2018

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

AC Members Absent: Martha Winsor and Braulio Escobar

Planning Commission Liaison Present: Jim Hanselman.

City Staff Present: Community Development Director (CDD), Derrick Tokos; Police Chief, Jason Malloy; Community Service Officer, Jovita Ballentine; Police Department Staff, Tony Garbarino; and Executive Assistant, Sherri Marineau.

Public Members Present: None Present.

1. **Call to Order.** The meeting was called to order at 1:00 p.m.
2. **Disclosures.** Tokos asked for conflicts of interest. Andre, Saxton, Ferber, Hines, and Michel disclosed they had potential conflicts of interest. Dailey, Hanselman, Perry, Connell, Posner, Boxer, and McElroy stated they had no conflicts.
3. **Approval of Minutes from the May 2, 2018 Meeting.**

MOTION was made by Dailey, seconded by Boxer to approve the May 2, 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. Connell asked to talk about the email Posner submitted in the previous meeting. Tokos said this would be addressed under committee requests. Tokos noted that he handed out an additional set of information from Host Compliance to the AC.
5. **Committee Requests.** Tokos covered the committee request documents that were shared with the AC. He noted that Excel spreadsheet of the licensed VRD had a problem loading in Excel and a correct version would be emailed to the AC. Perry noted that only three licensed VRDs on the list were received in 2018. Marineau would review this.

Posner reviewed the email he submitted at the last meeting. His idea was to have VRDs have a license for 10 years, then require them to slowly convert to long term rentals for an additional two years, then turn them back into not being rentals. Saxton said the VRD owners bought VRDs as second homes and to impose on them wouldn't work. Boxer didn't think this was legal. Posner didn't think it was illegal. Boxer didn't think you could convert from short to long term rentals. Dailey said you wouldn't say they could do, just say they get a five year license and then they wouldn't be licensed after the date. Boxer said requiring them to convert to a long-term rental wasn't legal. Connell said ordinances say what they can and can't do with properties and was different in terms of Measure 49. Tokos said to keep in mind there were different tools jurisdictions were using and the AC needed to be careful of how a five year limit affected caps. Boxer said in Lincoln City there was a 10 percent cap on Roads End and a seven year grandfathering in. Tokos said they were over the cap and why they were redoing it. He suggested capturing this discussion and moving forward. Posner was okay with this.

Hanselman said he strongly disagreed with calculations used with the Alternative 3 map. He said he didn't have a problem everything east of Highway 101 and prohibiting anything there was not necessary because it wasn't a highly sought after area for VRDs. The Alternative 3 group tried to take a look at specific properties west of Highway 101 and north of 16th or 20th Streets. He said to include all houses east of Highway 101 as a part of the percentage ignored the fact that the zone wasn't focused on and an impacted area. To include this with the un-impacted area was misleading. Hanselman asked when doing calculations for Alternative 3 prohibitive, only count west of Highway 101 and north of 16th Street would be the truer representation. He asked to count the tax lots west of Highway 101 and north of 16th/20th Street demarcation. Tokos said he could get the AC these numbers. He noted that there had been specific testimony against VRDs behind Fred Meyers was a problem. He said these units were a problem and was brought up to the City Council by numerous people. Hanselman said he reiterated that there were few in that area and minimal VRDs on the east side. Andre said if they decided to do a City wide policy, they needed to have different set of numbers. Hanselman thought the AC should look at the problem areas and see where the density is the highest. Boxer suggested getting statistics for the density for both the west and east sides. Hanselman said he was concerned about the prohibitive areas on Alternative 3 and was where there were problems with

density numbers. He said density didn't work unless they looked at the high concentrations areas. Boxer said Alternative 3 would push more vacation rentals to the south of this area. Hanselman said they didn't know that for sure and he didn't think VRDs on the east should be added to the impacted area density.

Saxton asked if there was data on VRD complaints. Tokos said there was limited data and most of what was brought up at the meetings was frustration and how neighborhoods were changing over time, not specific events. Hanselman noted that he made three formal complaints that weren't recorded. Tokos said he could get him the numbers. He believed the way they grouped out for the Alternative 3 map was done through a discussion about forecasting forward what the number of guaranteed dwelling units that would be available for people living and working in the community. They were also looking at what was the VRDs that would land in these prohibitive areas. He didn't agree that it was misleading.

6. **Options for Amending VRD regulations.** Tokos introduced Ballentine and Garbarino. Garbarino explained what they did as enforcement officers. He said VRD complaints were minimal and most of the complaints for them had been about parking. They encouraged owners to call them when problems were happening. Garbarino said Palm Springs had the best VRD policies in place and said the AC should review their model. He said what they were after was compliance.

Connell asked how someone would contact the enforcement officers to report. Garbarino said calling 265-4231 and dispatch would make a call out to them. He said they needed to know as things were happening instead of after the fact. Connell asked if the 4231 number went to dispatch and then the dispatcher would get to the enforcement officers immediately. Garbarino said they prioritized calls and as they cleared their calls they dealt with the complaints. It went from the caller to the call taker in the valley, they then put the complaint in a computer, it then went to the dispatcher, they would tell the officer on the street to look at it, then the officer would decide when to go to the issue. Malloy said response would also depend on the call load and officers may not respond to all complaints with the notice going to the community service officer on the next available day. He said some of the problems they had was responding after the fact and officers who didn't know if the property was a VRD and they didn't have the time or resources to figure out if they were VRDs. They were lacking on a central depository, how they responded to complaints, and what the specific number on complaints when they would take an enforcement act to suspend a VRD license. He said the current ordinances were weak and had empty threats. Connell was concerned to find out that the calls weren't going directly to the Community Service Officer. She felt this put an issue on how timely issues were being dealt with. Malloy said all complaints went through the same channel and an officer had to decide what to respond to on an as need basis. He noted the noise complaints would be responded to more quickly. The PD struggled to get the information to the Planning Department because the officers didn't know if the units were VRDs. Malloy thought there were a lot of ideas on how to fix this and he liked Palm Spring's ordinances. He said the PD needed teeth instead of empty threats.

McElroy asked if the 265-4231 was the non-emergency line. Malloy said yes and was answered at a call center in the Willamette Valley. Hanselman asked if this had been the procedure since the VRD change in 2012. Malloy said yes. Hanselman said when he made his complaints, he was told by the police and property management that he had no standing on continued trespassing of renters cutting through a property. He said if there is a complaint driven system, then anyone should be able to complain. Ballentine asked if he was making a complaint for a neighbor. Hanselman said yes. Malloy said when someone didn't like how the dispatch service was responding, they should call the Newport Police office and they would check into it. He reminded the AC that everything was recorded, so there were no secrets and they couldn't undo anything.

Perry said since the first step to report issues was through the property management, was there a way to track these complaints back to the City and asked what Malloy's suggestions were on this. Tokos said this would be discussed when they talked about Host Compliance. There was no formal way to share information between the Police Department and the Community Development Department. Dailey said most of the problems happened on weekends and asked how many officers were on shift at that time. Malloy said three to five. He said they didn't have control on when the message was being delivered to the officer because it was based on dispatch to get the information to the officer. He said Ballentine did a lot of code compliance. They didn't have the staff to do the VRD enforcement and the VRD enforcement was a very small thing for the PD. Malloy said they put in a request for VRD compliance funds and it didn't make the initial budget but the City Council would make the final decision.

Tokos started his PowerPoint presentation and covered enforcement issues and observations. He said taking away endorsements was a tool but not an end all be all. Michel asked what rights the City had when VRDs were operating without a business license. Tokos said an initial letter would be sent to the owner that identified that they had no license and would have a fixed time to come in to apply. He said this was not punitive. If they didn't respond, then the City would issue a citation and get a court summons with a fine of \$500 a day as violations continued, which would be up to the judge. Malloy said the City was limited there and couldn't lock up the doors to the VRDs. Michel asked if citations were unpaid would they become liens. Malloy said that eventually they could do a lien but it was very far down the road. Tokos said a significant amount of people took the fine seriously and took care of things. Perry said she wanted to see an actual street address instead

of a PO Box so there was a physical address to reference. Michel suggested they supply a physical address but have the PO Box for mailing. Malloy said Palm Springs said there had to be a local contact to respond. Michel said her property management company wanted their 800 number listed, but they would respond within 30 minutes. Andre said there was confusion on what it means to be operating a VRD. He thought it was an evolving industry and as rentals became popular, there would be a learning curve for owners. Andre said whatever the AC decided, there needed to be an intelligent solution based policy that acknowledged the suffering of neighbor.

Saxton asked what happened when someone reported an illegal VRD, does the City disclose who called. Garbarino said they didn't disclose. Tokos asked if the group thought a 30 minute response time was good and reasonable, and should be set as an expectation. The AC agreed. Boxer thought there needed to be a local response number. Tokos said there would be one number that went to Host Compliance and they would contact the number and would go on a centralized complaint log. Saxton asked why a VRD needed a sign posted with one number. She was concerned that it opened up the VRD to vandalism. Michel said in all other jurisdictions, they required VRDs to post information. McElroy asked if there had been break-ins. Michel said there would always be break-ins and information was all over the internet on what units were VRDs. She thought being able to see the contact information helped the neighbors be able to deal with issues. It was important to get calls as they were happening to be able to do something about complaints. Michel felt there was value for posting signs with information, and a central website was important to keep the frustrations down. Ferber asked if this would be helpful to the PD. Malloy said one of their requests was that VRDs were clearly identified by a unique number. He noted that technology made it very easy to do break-ins. Hines reported that the addresses for the VRDs weren't revealed to the renters until they were rented. Malloy said they had taken time with staff to look at rentals in the Newport area and were able to figure out where the house was without the address and it was not hard to figure out where they were located. Michel said a requirement to have the management company and local numbers posted would help the PD. She noted that she posted this information on the street as well as front door for her rentals. Connell said in terms of local response, she wanted to make sure there really was someone physically in the area to respond by phone or go out to the unit. Tokos thought there needed to be someone to respond within 30 minutes.

Tokos asked the AC if it was beneficial to have a cooling off period for those VRDs with chronic compliance issues they would have their license revoked and would say they couldn't reapply within at least 24 months. Dailey said the City needed to be more forceful after a period of time and at some point they had to say these owners would be prosecuted. Andre said there needed to be clear mechanism for people to comply and get back into the game. He wasn't opposed to a three strikes you're out process. Boxer asked how many times chronic owners had lost their license. Tokos said even when they were chronic, the City might still be dealing with them as an unlicensed VRD. Malloy said the City needed to be clear on revocation. If it was taken away, a 24 month cooling off would be good way to wait to reapply and the City could then look at why they were revoked. He thought there should be no guarantee they would get a license after 24 months. Andre said it was an opportunity for chronic VRDs to go through a process. Michel said it could be the property management that wasn't responding and thought perhaps a shift in management could be a fix. Tokos noted that these rules worked in conjunction with other rules. If there was a cap and we reached the cap, they would be looking at not being about to reestablishing licenses that were revoked because they would go on a waiting list. This would be a bigger deal when they realized they couldn't get back into a license. Ferber asked if a clear set of rules for revocation was established, didn't Measure 49 play in to it. Tokos said not so much and the jurisdiction needed to show what violations to the rules led to the revocation of the license. He thought the City would be on solid footing if there was a series of documented violations that led to the revocation. Michel said in terms of caps then a cooling off period might be out of the question. Connell said owners could have an opportunity after the cooling off period to get on the waiting list to reestablish.

Dailey said the owners needed to be held accountable but there needed to be a mechanism to deal with poor property managers. Posner said it was the owner's responsibility to have good management. Dailey thought it could be either one and wasn't sure they should allow the bad property manager should be allowed to continue. Tokos said when it came to enforcement, the City had to enforce the owner. Perry asked if they could add in the application process a question to ask if a prior license was revoked. Tokos said you could do this but they would need to ask what the relevance was to ask for this information in order to get a VRD license or not because it was a non-discretionary approval process. Perry said it triggered the person who was processing the application that there had been a revocation and a cooling off period. Tokos said it should have a record if revoked and would be flagged in a database with past issues logged in the system that were tied to the address. Hines asked if someone lost their license and sold the property and there was a new owner, could the new owner get a license. Tokos said in the context of the cap, a transfer of active licenses to new owners would be essential. There would be a certain amount of time for the new owner to come in to assume the license. Boxer asked how the City would get under cap in that case. Tokos said people who established VRDs have a desire to sell with the VRD rights. There would always be people who would drop their VRD licenses and others who would want to sell. Perry wasn't aware this was a decision that had been made. Tokos said it was a discussion item. Boxer asked if she could file a Measure 49 because she was surrounded by VRDs and her property value dropped. Tokos said she would have to get hire an appraiser. Boxer noted that Cannon Beach listed VRD violations and reviewed what happened with each violation. Tokos said it wasn't all that different than what was in the City's books now. Boxer didn't think that what the City had currently was as clearly

written as Cannon Beach. She thought there needed to be a way for licenses to go away. Tokos said if the AC decided to set caps there needed to be some automatic expiration language for licenses to go away. Boxer said this was why some cities sent a limit on how many licenses an person could own. Tokos said they could say if you weren't using the license in a certain period of time, it went away. Michel said this was why she was interested in transient room taxes and thought a person needed to file a certain amount of transient taxes to prove that the VRD was active. Hines noted that Airbnb submitted transient tax payments without knowing which property the amounts were from. Tokos said this would be changed with the new contract with Airbnb. Hanselman wanted it noted that he had suggested earlier in the meeting that none of his complaints had been logged. He said that McElroy found one of them and wanted to apologize.

Michel asked what ideas Malloy had about helping the PD with enforcement. Malloy said being able to identify that a unit was a VRD was important. He said they needed teeth to be able to do enforcement and to define what things were a violation. They then needed to know what VRDs needed to do to be in compliance. Connell asked Malloy to walk through how the complaint system worked to know what the PD needed. Malloy said if there was a criminal event a sworn officer would be dispatched. He said that something that needed follow up would be followed up on by Ballentine and would work with the property owners for compliance. Connell asked if the complaint was first done by sworn officers, would they then be followed up by Ballentine. Malloy said typically, unless Jovita was working and she would be initially dispatched.

Tokos reviewed the License renewals and asked the AC if there was a desire for an annual renewal of licenses. Dailey thought there should be a review of their insurance. Hines asked what kind of resources this would take. Tokos said it would be an attachment that would be required with the renewal every year. Michel asked if the Fire Department was doing inspections every year or two. Tokos said they weren't sure and would want to provide the Fire Department the flexibility to structure this based on available resources. Dailey said you would want to have something so that there was a building code complaint there would be a process to have follow up with an official. Michel asked if the City could be involved in this. Tokos said on the building side the City checked things on the initial inspection, but not on an annual inspection. Tokos said they wanted people to be as safe in VRDs as they would in hotels.

Tokos asked if there were any concerns about bringing language about automated expirations provisions in terms of if there was a cap and the VRD wasn't being used in a certain amount of time, the license would go away. Ferber thought if someone wanted to buy a property for a VRD and it held the license it had value. Connell said the other side to this was that if they weren't using the license it meant the City wasn't benefiting for room taxes. Ferber said the argument was that they would lose the possibility because of not using the license was counterintuitive. Tokos said anyone who went through the effort to pull a license intended to use the unit as a VRD. If they bought licenses up to save on properties, there were others who couldn't have a VRD and they shouldn't be able to sit on a license. Ferber asked how long this would be. Tokos said he would give some options. Connell said second homes that like to take in little funds for VRDs needed to be kept in mind. Boxer said for the Hood River ordinances, R-1, R-2 & R-3 zones only allowed rentals up to 90 days to get some relief. She said the AC hadn't talk about this and it seemed like other jurisdictions had greater restrictions. Tokos said most didn't have hard caps. Boxer asked how would they get under the hard caps if the licenses went with the property. Dailey said there were people who thought it was a great way to earn money. Boxer disagreed since the ordinances had been put into place for this. Tokos said there needed to be a talk about cap and tenancy limits. The AC could discuss if caps should be above or below current numbers. Boxer wanted proximity limits discussed as well. Tokos said he would be add language for proximity. McElroy asked if the license didn't go when property when it was sold currently. Tokos said yes.

Tokos reviewed the Host Compliance handout and the services they provided for VRD compliance. They had clients in Eugene and Hood River. Tokos said he would be talking to these jurisdictions about Host Compliance. He noted that they had identified 244 listings in Newport. Some of the units were outside of Newport and they suggested Newport was around 85 percent compliance. They gave an overview of the services tailored to Newport's timeline. Tokos thought the AC should show them the current ordinance to see if there were any issues.

Perry asked how people who didn't have smart phones could utilize the service. Tokos said there would still be a way to do applications over the counter that would be uploaded to the system. Host Compliance had staff who could find out who was listing on sites. Tokos said the Finance Department would upload a room tax list and they would give a red flag of the units who didn't match up and were renting without a license. Andre asked how they would know if the units were blocked out for relatives or maintenance. Tokos said the point was that they were doing the monitoring that we couldn't do. He said the cost to use Host Compliance would be about around \$30,000 a year to leverage it. Tokos noted they could do the first round of warning letters, but not enforcement. Andre asked what the follow up would be. Tokos said they didn't talk that far into the discussion but would it would be part of the process. He thought the City could possibly pay for the cost through annual licensing fees. The City would still be responsible for enforcement. Posner asked if they could cross reference owners in different cities. Tokos said they hadn't talk about this. Perry asked if the City had copies into the system, did it go into their database even though not entered into the cloud. Tokos said the only way it would work would be a set of data that the City would upload. He said we could see how it affected our enforcement and then make adjustments. Perry asked what would happen with the owners who didn't advertise online. Tokos said he would talk to them about this.

7. **Public Comment/Questions.** None present.
8. **Adjournment.** The meeting adjourned at 3:01 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant