

MINUTES
City of Newport
Vacation Rental Ad-Hoc Committee Meeting #9
City Hall Council Chambers
Wednesday, June 13, 2018

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

AC Members Absent: Bonnie Saxton (*excused*)

Planning Commission Liaison Present: Jim Hanselman.

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

Public Members Present: Bill Branigan, Rod Croteau, Veronica Willemin and Golam Azan.

1. **Call to Order.** The meeting was called to order at 1:00 p.m.
2. **Disclosures.** Tokos asked for conflicts of interest. Ferber, Hines, and Michel disclosed they had potential conflicts of interest. Dailey, Hanselman, Perry, Connell, Escobar, Posner, Boxer, McElroy, and Winsor stated they had no conflicts.
3. **Approval of Minutes from the May 16, 2018 Meeting.** Tokos asked for input on the minutes. Dailey noted minor corrections.

Perry asked for an update on the number of VRDs that had applied in 2018. Marineau would get this information for the next meeting. Connell asked for the VRD list to be numbered in the future. Marineau to do this.

MOTION was made by Dailey, seconded by Boxer to approve the May 16, 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. Connell noted that she looked at the Palm Spring regulation model and thought the AC should look at it for consideration. Tokos would make copies, email it to the AC, and add it to the next meeting.
5. **Committee Requests.** Tokos covered the committee request documents that were shared with the AC. Tokos noted the handout he gave to the AC at the meeting in response to the breakdown of numbers for the area west of Highway 101. Tokos noted the News Time article about VRDs that was also handed out to the AC. Boxer handed out a summary of regulations for other jurisdictions for the AC to review. She noted that not every jurisdiction transferred licenses and required new owners to reapply when there was a transfer of ownership. Tokos said Hines had asked to discuss occupancy caps and noted it would be added to his presentation.

Dailey covered the article she submitted about a VRD that was built with public funds. Boxer said there was typically a covenant when using public funds. There wasn't in this instance which could have saved this from happening. Tokos said the City's incentives for affordable housing had restrictions for VRD uses in place.

Tokos reported the updated Alternative 1 map had the Wolf Tree resort area south of the airport added. He said it needed to be kept in the map because it was designated a destination resort. Winsor asked if the area fell under the regulations for VRDs. Tokos said it meant it would be an area where VRDs were permitted and if the destination resort happened, it would mean there would be a discussion on how it related to the caps.

Connell noted that she worked with the VRD spreadsheet that was provided to the AC. She asked about some of the notice dates missing and if they were noticed. Marineau noted that some VRDs were older. They had been noticed but just didn't have the noticed date listed on the spreadsheet. Connell asked if there were endorsement numbers for VRDs and asked for the numbers to be on the next lists so it could be tracked. Marineau explained the City had the endorsement numbers for each of the VRDs. Tokos said he would make sure that the endorsement numbers were included in the future. Connell noted that 345 SW 11th St wasn't zoned correctly. It was R-4 instead of C-3. Marineau to correct this. McElroy asked where the new three VRDs that were added to the list were located. Marineau didn't know off hand but noted they were sorted into the list by zone.

6. **Options for Amending VRD regulations.** Tokos gave an update on Host Compliance. He said Eugene was happy with their services but noted they only used them for room tax. Tokos said he expected that Airbnb would have to submit taxes with the individual addresses noted. The City had stepped out of the previous contract with Airbnb and would have a new one after July. Hines asked if owners would have to pay Airbnb room tax payments directly. Tokos said no, Airbnb would pay but it is unclear if they would have to designate how much was being paid for each property.

Tokos referenced the Measure 49 memo that meant that the AC would have to be cognizant of how the changes they did affected residential property values. He noted the reason Hood River and other jurisdictions amortized and did phase outs was to address this law. He said that the process to do a Measure 49 claim wasn't easy. Boxer said that all the jurisdictions that had done phase outs made them good for five year. She agreed that there needed to be time to phase out and be fair. Tokos said as long as there were provisions in place for phase out, any of these would be defensible. Escobar asked if Tokos was suggesting a five year phase out. Tokos said five to seven years would be optimum. Connell asked if there was a time frame in order for an owner to make a Measure 49 claim. Tokos thought there was some language in the law for a time frame but it wouldn't be open ended. This was where the amortization blunted it. He said the AC needed to keep in mind the effective date of the changes in the ordinance that came from this process. He noted an ordinance was effective 30 days after it was adopted, unless it was adopted by emergency. Any VRD applications in process before the changes were effective fell under the no change in the goal post rules and they would have six months to complete their applications. There might be some VRDs in process under the old rules. If they failed to complete the application process in six months, we could kick them out as stale. Connell asked if this applied to existing properties going through the process or proposed. Tokos said this was ones who had applied but hadn't received their endorsement. Connell asked if the rules only applied to buildings that were constructed. Tokos said yes, they couldn't submit until it was an existing dwelling. He said that if there was an application for a VRD in a prohibitive area, they would be able to get an endorsement under the old rules. Then, when they obtained their license, they would be subject to the same amortization provisions as any other preexisting VRD in the prohibited area. Ferber asked if there was a cap was in place, would it be a part of the amortization. Tokos said potentially if numbers were under the cap. This would be a part of the discussion in caps and there would be some sort of phase out.

Tokos covered license renewals next. He said at the last meeting he heard that there was a general agreement that an annual license renewal was needed and there should be some form of automatic expiration language for license hording under a cap system. Boxer said the AC should talk about the license fees as well for ways to make up for some loss of revenue. Ferber asked why a VRD should have a different license fee as a restaurant. Tokos said the AC could talk about fees and the thought was to set the fee on the license renewal to cover the cost of Host Compliance. Michel asked how other business license fees were determined. Tokos said it depended on the type of fee assessed. There had been a utility rate fee review which was there to support capital projects. Others fees were set by considering what a reasonable fee was. Michel asked if there was money in the general fund to hire Host Compliance. Tokos said no. He said we could adjust the fees or changes to how things were currently being collected, which was a budget decision. Michel proposed looking at the cost for Host Compliance and how it affected adjustments to fees. She also agreed with Ferber to ask what the difference was between business licenses and this fee increase. Perry said she could see the business license not changing but having an application fee increase to cover costs. Tokos said what he was talking about was the VRD business license endorsement, not the base business license. Boxer noted that she paid for more licensing than just a business license for a restaurant. She thought there had been very laxed oversight because there wasn't enough staff to cover this and there was a cost to operating a sufficient oversight for VRDs. Connell said this was also a part of what Posner had talked about as far as using volunteers help manage the system. She thought making the rules as simple as possible was important to be able to take action. Tokos said Host Compliance cost around \$30,000 a year and it wasn't unreasonable to cover this cost with application fees.

Don Andrea entered the meeting at 1:42 p.m. and reported a potential conflict.

Hines said that if the VRDs were capped at 200, a fee of \$150 would cover the cost of Host Compliance. Connell said the application fee could be structured for the real cost of the application and Host Compliance. Tokos said we don't do a cost recovery on all of the administrative things because there is benefit to the public at large. Capturing the percentage of cost is the typical approach. This was because the rest of it was a general public benefit. Perry asked if a maximum number of VRDs by owner would fall under licensing. Connell said the AC wasn't so concerned on number of owners of VRDs but more on caps. Boxer noted that there were other jurisdictions that only allowed owners to have one VRD. Tokos said this hadn't been a meaningful issue for Newport yet. He said if a cap was in place and we saw that there are owners with more VRDs, it could be revisited.

Tokos reviewed the approval process and said the question was if licenses should continue to be over the counter and what role the neighbors should have in the approval process. Escobar thought neighbors should have a say as part of the application process. Tokos said if it was discretionary process then neighbors would be able to weigh in. With fixed standards, people will get upset that they were noticed but didn't have a say. If it was a conditional use (CU), then they could weigh in. McElroy thought proximity requirements could help with this. Tokos said yes, and if they didn't meet the proximity standards

they would go to the Planning Commission (PC) and neighbors could weigh in at the hearing. There was a question on how the proximity notification area was determined. Tokos said the proximity would be a radius that would typically be centered off a lot or building footprint. If it was a lot, it would be based on the perimeter of the lot.

Connell said that CUs seemed to be coming up a lot more as more people were building new. She thought that in order to not over burden the City or PC they should say that if VRDs didn't meet the standards, they didn't get an opportunity to get a CU process. Escobar thought there should always be an avenue to appeal adverse decisions by the staff. Tokos said as long as they got the standards right, they wouldn't have that avenue. Connell was worried about the parking requirement being something that would be an issue. She thought that if they didn't meet the standards they shouldn't get endorsed. Dailey liked being able to do limited adjustments for parking in neighborhoods. Tokos said if they went with not doing a CU process, the parking standards would be adjusted to make it clear that VRDs in the Nye Beach, City Center, and Bayfront Parking Districts would be subject to the parking standards in those districts just like any other use. The city would have a difficult time defending an action requiring VRDs to provide parking in those districts when all other uses that were generating traffic didn't and got to use public parking. They would question what the reasoning would be to have parking requirements for VRDs when all other uses didn't. Perry asked why VRDs couldn't use public parking. Tokos said this was the point and if they decided to not do a CU process, the VRDs in areas where they didn't have parking requirements would have to follow the same rules as everyone else. Escobar thought that a justification would be that parking was a limited resource and if doing a commercial activity, they needed to provide their own parking so other commercial activity had access to parking. Connell thought it boiled down to how many hotels and lodging establishments weren't required to have their own parking. Tokos said it wasn't that they didn't have their own parking, it was they didn't have enough parking and had an entitlement to use a certain number of public parking space. Connell thought in the context of overnight lodging it should be about what requirements other overnight businesses were subject to for parking. She thought the City could defend that in this particular use. She said in order to not over tax City resources, there should not be a CU process. Tokos said where there were special parking districts there can be drafted rules that they had to meet the special parking district rules. Escobar asked if other overnight establishments had parking rules. Tokos explained that they were allowed to use public parking assets. If they generated a demand for more than five off-street spaces, they had to provide off-street parking which was devised under business rules. VRDs generally fell under the five space demand.

Hanselman said LUBA determined cities weren't required to permit VRDs and could treat VRDs differently from other businesses. This would give the City standing to say VRDs were different from other businesses. Tokos said this was more about needed housing and was a little different issue. There was an argument to say VRDs weren't considered needed housing because it was a commercial use, but they required policies in place to facilitate. Tokos said there needed to be rational for putting different rules for VRDs in the same districts where other uses didn't have the same rules. Andre was opposed to VRDs being treated as second class businesses because they provided a lot of benefits to the community. Hines noted that renters were also putting money into the community. Ferber said he did some research and found that in terms of infrastructure usage, a house that slept eight with a 50 percent occupancy had a population of 1,468 people over the course of a year. With two people to a car, that meant there were 730 cars per year. Restaurants with 35 tables that seated four with 50 percent occupancy had an occupancy level of 25,480 people with 12,750 cars per year. He felt that the same people that were parking at VRDs were the same people and felt there was a judgment being made for this type of business. Tokos said the usage timeframe for long term was different for retail activity with different dynamics. He suggested having a provision that didn't provide CUs and another that had CUs for parking. Escobar suggested that VRDs that couldn't provide off-street parking should pay into the parking districts. Tokos said there was a new parking study happening and VRDs would be picked up with this. He noted that Silvia Beach Hotel and the Grand Victorian didn't pay for the parking permits. Perry asked if there could be a fee for these permits. Tokos said yes and was what the parking study was looking at. Perry asked if it could be included with the approval of the CU permit. Tokos said it would be inherent to the parking district for all uses (commercial and residential). Boxer suggested no CUs for residential districts. Connell agreed as long as they defined what was residential. Boxer suggested exempting the cost of parking permits for residential in Nye Beach.

Tokos listed the current VRD posting requirements and asked if the AC wanted any changes. McElroy said the VRD next to her house had a group staying there for six weeks. She questioned if the registry requirements were done on this. Michel said they had to record this information during the initial renting. She said this would fall under a complaint. Tokos said new guests had to log their vehicle information. The existing ordinance required the information be recorded but limited who could access the information. Hanselman asked if the neighbor had rights to get the renter's information if their property was damaged by renters. Michel said she would want them to call the property management contact to resolve these issues. Tokos said if there was damage they would notify the police who would have access to this info. Hanselman was concerned that the PD wouldn't respond if the person wasn't reporting for their own property. Tokos said the Police Chief said they prioritized complaints and would respond. A discussion ensued regarding reporting complaints. Perry asked how complaints would be logged. Tokos said it would go into a central complaint log that would allow it to be dispatched and resolved by Host Compliance. Tokos asked if the AC had any concerns on posting requirements. Escobar asked who should have access to the guest registry. Posner thought it was a privacy thing and as long as the responders would be able to access the information, no one else should need to access the info. There was a general agreement by the AC on this.

Tokos covered the effect of rule changes on existing rentals. He asked for the ACs thoughts on if new VRDs in newly prohibited areas should have a gradual phase out. He noted that CUs that had been approved before the change of standards in 2012 were grandfathered in for additional occupancy. Tokos asked if this should go away with the new rules. Connell asked if it would be subject to the amortization period. Tokos said it could be set up that way and would make sense if it was a land use piece as opposed to procedural. They wouldn't amortize for licensing changes. Perry asked if there would be a time limit to phase out. Tokos said five to seven years. McElroy asked why they weren't looking at a shorter period of years. She said to keep in mind the people in residential neighborhoods that are having problems with VRDs. Tokos said not everyone would wait five years and more of an up to thing. Some AC members wanted a shorter time frame and others wanted a longer period of time. Connell said if a complaint registry was driving the problem, more enforcement to address these things would help the five to seven year period go smoother. Andre said he supported the notion that if there were bad players there was an avenue for them to realize they may want to get out. McElroy wanted a three strikes you're out system. Tokos said that was picked up on the enforcement side. Escobar asked that the minutes reflect that on the amortization issue, there wasn't a consensus on the alternative suggestion to have it be somewhere between three to seven years. Perry asked what the philosophy was for the span of time. Tokos said meant the AC would suggest a year span of five to seven years and then the PC would choose a year out of the span for amortization.

Hanselman asked if there was a time limit for three strikes you're out. Tokos said for one violation, not a neighbor dispute, there was a strike and there had to be a validation of the complaints and there would be a cooling off period. Michel felt if there were three strikes they should lose their license for as long as an owner owned the property. Andre wanted a chance for these people to regain their licenses. Posner said if there was a cap, they might not be able to get their business licenses back. Michel said the cap would keep it from happening again. Tokos said what he was hearing was to amortize over five to seven years. Escobar asked if the law allowed them to have amortization for five years. Tokos thought they could and said the AC was framing things for the PC to give them choices.

Tokos reviewed room taxes and fees. Escobar asked if Eugene thought Host Compliance was doing good. Tokos said yes. Andre asked how the room taxes collected would be used. Tokos said there had been a conversation earlier to set the fees to cover the contract services. He said room tax collections were restricted on how they could be used. A portion could be used broadly on the general fund and a portion had to be used on such things as tourism promotion. Perry asked if the percentage could be changed. Tokos said it was set by State law.

Hanselman asked if it was up to the City to decide what to do when Host Compliance discovered rouge operations. Tokos said jurisdictions would handle this by a punitive fee on normal permit fees when they are caught doing something in violation. He said that Newport hadn't done this. Hanselman asked if this needed to be discussed. The AC agreed that it should be. Posner said if they were operating without licenses and there was a cap, they might not get in. Dailey said there was a problem between those who started operating without knowing they needed a license and others who knew what they were doing. She felt those who knew needed to have some sort of penalty. Boxer said Palm Springs had a rule that if they were caught without a license, they would get a \$5,000 citation no matter what. Tokos said the City had a \$500 citation a day but it was up to the municipal court to impose the fees. McElroy said that Host Compliance had identified VRDs that weren't on the City's list and wanted to know if the City could have information on who these were. Tokos didn't know what they did to determine these VRDs and wasn't sure what they would provide at this time. Connell asked to take this discussion up at the next meeting. Tokos said if VRDs were operating outside of the caps it was a civil infraction and he could provide what these fines would be. He wasn't sure about room tax collections and a judge would decide if fees would be imposed.

7. **Public Comment/Questions.** Tokos noted that Rod Croteau, Bob Berman and Lon Brusselback had submitted letters to the AC for review. Winsor asked to delve into the discussion about density more.

Veronica Willemin addressed the AC. She said she was concerned about the Nye Beach area. She felt the alternative maps didn't provide any changes in the Nye Beach neighborhood and felt it was getting out of balance. Willemin said the areas with small streets were being added to. She noted that the additional red areas on Alternative maps 1 and 2 was where there weren't any VRDs yet. She thought the reason for the VRD regulation review was because of the Nye Beach area and asked the AC to have more of a discussion about density limitations. She asked for clarification on the signage for VRDs and why they all couldn't be expected to have this. The AC said this was going to be a requirement they wanted to add. She asked if it was a valid concern if someone had a concern that their property wouldn't sell if the license didn't carry over to the next owner. Tokos said there would be two options given to the PC to consider; one to transfer the license and the other to not transfer. Perry asked if that was the consensus of the group. Tokos said there wasn't consensus and the reason for two options. Dailey said restrictions should differentiate between commercial and residential zones. Willemin asked if there could be any changes to address the Nye Beach area and felt overwhelmed with the number of VRDs in the area. Posner said if there was a proximity cap, it would help in the area. Boxer said they needed to look at the livability of neighborhoods being impacted. Tokos said the AC would be revisiting tenancy just like they did with occupancy. Connell said VRDs impact

the livability of residential neighborhoods. Andre said it was the ACs job to address all concerns. He felt it wasn't useful to say there were winners and losers. He preferred to stay with the thought that the AC would do their best to address the concerns and reminded that they wouldn't totally agree on everything.

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

Respectfully submitted,



Sherri Marineau
Executive Assistant

