

MINUTES
City of Newport
Vacation Rental Ad-Hoc Committee Meeting #11
City Hall Council Chambers
Wednesday, July 11, 2018

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

AC Members Present By Phone: Charlotte Boxer

AC Members Absent: Cheryl Connell and Bonnie Saxton (*all excused*). Lauri Hines.

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, and Bill Branigan.

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, and Michel disclosed they had potential conflicts of interest. Dailey, Hanselman, Perry, Escobar, Posner, Boxer, McElroy, and Winsor stated they had no conflicts. Escobar asked if there could be something placed on a property to keep it from being a VRD. Dailey said covenants could be put in place to do this.
3. **Approval of Minutes from the June 27, 2018 Meeting.** Tokos asked for input on the minutes. Winsor noted minor corrections to the minutes. Perry asked for clarification on if the AC was saying that R-1 and R-2 zones would have no VRDs allowed altogether. Tokos said no and explained there were proximity limits for no more than one per street and caps that would limit the density number of VRDs in R-1 and R-2 zones. He also noted Map Alternative 3 picked up the Agate Beach area that was substantially R-1 and R-2. Escobar said that he thought VRDs would be out of R-1 and R-2 zones altogether. Tokos said he didn't hear agreement that this was the case. Dailey agreed and said the AC didn't have a consensus for this. Perry asked if the transfer of licenses would be excluded for R-1 and R-2 zones. Tokos said they had discussed transferability being limited to the C-2 zone. Perry noted that there hadn't been a discussion about how to choose which VRD would go away when the area had exceeded the cap. She asked that the AC discuss this. Tokos said this would be reviewed in the policy options.

MOTION was made by Dailey, seconded by Winsor to approve the June 27, 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. None were heard.
5. **Committee Requests.** Tokos covered the committee request documents that were shared with the AC. He acknowledged the News Time Article Escobar submitted and Dailey's request for VRD numbers since 2010. Tokos said the numbers would be provided at the next meeting and noted that there might not be much information prior to 2012. Tokos acknowledged Winsor's request concerning VRD proximity methods. He noted the fee structure ordinance that was handed out to the AC and said it would be discussed with the AC later. Tokos also noted the updated VRD list Perry requested that showed the count of VRD since October 2017.
6. **Options for Amending VRD regulations.** Tokos reviewed the dates for the public outreach workshops and the purpose of the workshops. Perry asked what a stakeholder was. Tokos said this could be anyone. Perry asked for it to say "persons" instead. Dailey suggested using "interested parties." McElroy asked if the open houses would be set at the same timeframe and venue as the AC meetings. Tokos said they would be held in the evenings in Council Chambers. Dailey asked if all AC members should attend. Tokos wanted as many AC member as possible to attend. He said he would need their help and it was important to be there to hear the comments of the interested parties. Perry suggested the AC integrate their feedback into the plan. Tokos reported that the outreach would be held on August 15 and 22, 2018.

Tokos reviewed the PowerPoint presentation on the outreach meetings. The topics that would be presented at the meeting would include why the city was considering changes to the VRD regulations and how they got to this point. Tokos covered the Ad-hoc workgroup responsibilities, who the group members were and what the AC's proposal was.

Branigan noted that he had talked to many people who thought home shares were considered an Airbnb and different from VRDs. He suggested home shares and Airbnb be more defined. Dailey suggested when someone owned more than one VRD they should be in a different classification because it was more like a hotel. Tokos said it was intermediary and this would be defined for the outreach. Perry thought the difference between a homeshare and Airbnb needed to be clarified.

Tokos reviewed the format and materials for the open houses. Escobar said it would be helpful to have the AC get input from the citizens as a whole rather than boxing people into to set subjects. He thought the public should be able to give their thoughts to the whole group. Tokos said they would be able to give their thoughts when and where they wanted to and it wouldn't be boxing them in. Escobar asked how the AC would digest feedback from the outreach. Tokos said he would give the AC a compilation of their thoughts. Ferber asked how the AC should reply to citizen's questions. Dailey suggested the AC not tell the public anything specific because nothing was set. Ferber said he wouldn't give anyone else the power to represent his position other than himself. Dailey said the AC could say there were opposing points of views and nothing has been decided. The AC would only make recommendations to the Planning Commission, then on to the City Council and they make the decisions. Ferber was concerned that most of the public that showed up for the outreach were typically people who were angry. He was concerned about attending meetings and being yelled out. Tokos said at most of these meetings people were civil and if there was any escalation, he would step in. Perry recommended having snacks at the meetings and asked that there be more than one announcement in the paper in order to get a broad outreach to the community. Winsor asked to post information on the website well before the outreach meetings that showed what would be talked about at the meetings. Escobar asked to structure the format so the AC could hear comments in mass from the citizens. Michel thought that some people would be more comfortable writing their thoughts instead of talking in front of a lot of people. Perry encouraged a gathering format. Tokos encouraged the AC members to hop around to different stations at the outreach meetings. Branigan suggested a Spanish speaker attend the outreach meetings.

Tokos reviewed the station layout for the open house. There would be eight different stations and they could add more if needed. The AC was in general agreement that this was reasonable. Winsor asked if there would be a formal start time. Tokos said people were free to come and go. Perry suggested implying that it was an open house and snacks were provided.

Tokos showed an example of what a poster board would look like for the open house. Perry thought there should be a slug line on each saying, "what do you think" to encourage thoughts. Hanselman suggested that some of the alternatives that have been talked about by the AC be included as well.

Tokos reviewed the next steps that would be shown at the open house. He noted that he would have a draft code to the AC at their next meeting but it wouldn't be shared out at the open houses. The last two AC meetings after the outreach would be when they would flush it out. Posner asked when it went to the City Council would there be an anticipation of adding staff so that the process didn't fall between the cracks. Tokos said if there was solid footing to implement the compliance software and this would be like adding staff. The city would get some quotes out right away because it would take six to eight weeks to roll out. The city would provide the draft code to the compliance agency to get their feedback on how to tweak it to have the policy work better with their program. Tokos thought that a third party vendor could help handle this.

Tokos noted that the open house attendees would be given information on how they could stay informed. The AC was in general agreement on the flow of the open houses. Berman asked if all the existing VRD endorsement holders would get notices. Tokos said absolutely and this would make sure they had ample notice of the changes.

Tokos reviewed his PowerPoint presentation on B&B establishments and home shares. He asked the AC for their thoughts on how these should be regulated, sensing that they would be a carve out. He noted that about five percent of VRDs were home shares and they weren't as common. The current proposal said to exempt B&Bs and home shares from the density and locational limits the AC had been talking about. Perry asked if B&Bs were allowed in R-1 and R-2 zones. Tokos said yes, there were allowed anywhere but by definition they were owner occupied and had to provide food service. Perry said this brought up the need for a definition when it came to Airbnb. Andre said Airbnb was just a portal and there could be both home shares and whole home rentals on the website. Winsor reminded that a B&B and a home share was owner occupied. Tokos said the VRD would be an entire rental unit with nobody living there. B&Bs and home shares would have someone who lived there. Ferber asked what happened when the owners would leave during the rental of the unit. Tokos said there could be a requirement that someone had to be present. Ferber asked how they would determine if the owner is there. Dailey said it was an enforcement issue. Tokos said more often it would come up on a complaint basis and would go to the Community Service Officer. If the owner was not there, then there would be an issue. Hanselman asked if this applied when they rented a room long term. Tokos said no, it was any rooms rented less than 30 days. Dailey said when talking about limiting in R-1 and R-2 zones, they wouldn't want unlimited B&Bs in those areas. Tokos said there were some long established B&Bs in different zones, but they hadn't seen much growth of these. In both the home shares and B&Bs there was someone there at all times and it mitigated themselves. Tokos thought this would be the rationale they could use to carve

out these two types of rentals. McElroy noted there weren't any complaints about B&Bs in the complaint list provided to the AC.

Hanselman asked if there was a limit to the number of rooms for home shares. Tokos said it would be limited to five bedrooms and if it went over, it would be considered a commercial use. Michel said she was concerned about tenancy restrictions when talking about home shares and B&Bs not having the same rules as VRDs. She said she wanted tenancy limits so it was agreeable for the livability of the neighborhood. Tokos said it would be more about how they were carved out and where they would be allowed. They would have to meet the same standards as VRDs. Berman asked if the caps would apply. Tokos said not with the B&Bs and home shares. Berman thought this would be a way around the caps. Dailey noted that they would have to have someone present. She thought it wasn't an issue at that time and suggested carving them out. Dailey suggested leaving it open to the future to see if they needed to deal with B&Bs in a more proactive form. Ferber said there was an illusion being created about monthly rentals that doesn't play out in reality. He thought it came down to responsible landlords. Dailey agreed there was some difficulties in this area and thought a VRD shouldn't be a substitution for workplace housing.

Winsor asked what the disadvantage would be to put home shares in the same category as VRDs. Tokos said this could be done, but there would be an argument on why location and number limits would be applied if there hadn't been an issue with homeshares leading to the standards. Posner suggested they make a general statement that if there was any income from renting out a space, it was a business and would all be considered the same. Tokos thought they could frame this as a carve out for the outreach meetings and then provide alternate options that they could fall under the cap and see what the public feedback would be. Hanselman asked what the down side would be to say home shares could continue but were limited to renting out only one or two bedrooms. Tokos said there could be a cap placed on the number of bedrooms. He said B&Bs would often have commercial grade kitchens and were specifically built for B&Bs. Not being able to continue to operate would be a bigger hit for them. Escobar thought that there hadn't been problems with home shares because owners were present. He was concerned about limitations on affordable housing from the market place which meant that motels became long term rentals. Andre thought the AC was guessing when talking about a carve out versus no carve out. He felt this was setting in motion a policy that would ripple into the community. Andre said the guess the AC was making was that they would be substantially changing how VRDs operated by saying a real live person would be engaged and add a little complexity. Michel recommended carving out B&Bs and not home shares. Tokos said it could be framed as options. The rationale they could use was that someone would be present and they were not affecting the housing supply because there was someone living onsite. Tokos said the alternatives would be not doing a carve out for home shares, or not doing a carve out at all. Winsor asked to add an option to reduce the number of bedrooms for home shares. Berman thought that if B&Bs and home shares were carved out, the cap needed to be reduced. Tokos thought it might influence what number the AC would want to present in terms of a cap.

Tokos revisited the discussion on tenancy limits. He said at that point the AC was saying they didn't want to go that route. Boxer said a lot of other jurisdictions had caps but not proximity limits. She thought if the city did both, it would be adequate. Tokos said if it became a topic at the open house the AC could revisit it.

Tokos reviewed the discussion on occupancy limits. He asked the AC for thoughts on limiting the plus two. Ferber suggested limiting the plus two to seven years and under. Boxer said many other jurisdictions didn't count children three years and under in the count. Michel said she couldn't remember which was which, but the County and Yachats did either four years and above, or two years and above. Escobar asked Michel how many renters skirted the occupancy limits. Michel said because of good management practices, it didn't happen. She said if a house typically slept 12, they didn't typically max out the house occupancy. The VRDs would provide extra beds for people that didn't sleep together but would stay within the occupancy limitations. Hanselman said he was happy with the plus two being seven years and under.

Hanselman said the AC hadn't talked about clarity for the three strikes you're out rule. He thought they needed to be clear on what constituted a strike and to be accurate on what an infraction and a strike was. Michel noted that Tokos had clarified that someone calling in a complaint wasn't necessarily a strike against the VRD. If you give them an opportunity to correct the problem and they do, then it wouldn't be a strike. Michel thought they needed to determine at what time it became in compliance. Hanselman said they shouldn't have multiple times to correct the problem.

Tokos said what he was hearing on occupancy codes was that he should look at other jurisdiction's codes to get a number, which would probably not be over seven years. Boxer thought it should be a lower number. Winsor asked for clarification that what had been discussed was to have two per bedroom and drop the plus two, with an exemption for small children. Hanselman disagreed with this and thought they should have to count the children as a part of the occupancy. Michel said good definitions were needed. Tokos said there would be a determined age. He said the AC might get feedback from the public on this. Ferber said he didn't think Hines' viewpoint had been heard because she wasn't present. He thought it came down to management practices. Ferber said it wasn't right to reduce the value of the house because of something that hadn't been problematic. Tokos said the way it would be framed for the open house was the proposal would be to drop the plus two

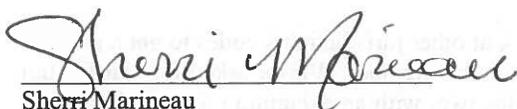
with one of the options being to retain the status quo. Another option would be a hybrid to drop the plus two but have an exemption for small children. Michel said if there was an occupancy limit of plus two, Ferber's house was licensed for 10 guests but would have to provide four off-street parking spaces per house. She said if didn't meet the requirements, then he couldn't sleep that many people. Hanselman thought the occupancy should be based on two people per onsite parking spaces. Tokos said there were a number of VRDs that couldn't use all the bedrooms in the home because they didn't meet the parking requirement. He reiterated that what he heard was there would be three alternatives. The primary one would be to drop the plus two, with alternatives for the status quo and a small child exemption. Michel asked if they were setting occupancy on age. Tokos said the current occupancy was based on all overnight occupants, not their age.

Tokos reviewed the map he provided that referenced Winsor's question on proximity limits for multifamily zones. Her thought was to have a multifamily unit considered to be one single family home for purposes of the proximity limits. He said it could be done but it could get a little weird in the C-2 zones because that was where hotels and motels were allowed outright. The AC should be asking why they should be different. Winsor felt that a proximity limit for R-3 and R-4 zones differently than R-1 and R-2 zones. Tokos said this could be done for a multifamily units in R-3 and R-4 zones should be set up for purposes of the proximity standards, with a multifamily structure being consider a unit. They would leave the commercial zones out because they could convert multi-units into a boutique hotels in those zones because they were allowed outright. Owners would have to do a conditional use to have hotels in R-4 zones and they were not allowed in R-3 zones. Tokos thought this could be distinguishing reason. He asked for the AC's thoughts on extending the spacing requirements to the R-3 & R-4 zones and treating a multifamily project as one unit. McElroy said the AC had talked about combinations of proximity and distances. She said doing multifamily units as one unit could lead to a property being surrounded by VRDs. Tokos said the buffering would be framed as a policy alternative. McElroy said there needed to be a definition of distance and proximity limits. Tokos said it would be framed as one or the other because they were different ways to tackle how to limit.

Tokos said for phasing out the homes where there were two VRDs on the same street, he thought as soon as one surrendered a license, it would go away. He said another alternative would be to say the more recent licensed VRD would be amortized. Perry wanted the five to seven years for the phase out to be dropped to five years. She asked how they would phase out on streets with multiple VRDs. Perry also asked how the areas in green on the maps that allowed VRDs was determined. Tokos said for proximity limits, all the areas in green were where they were allowed but had no VRDs currently. For the open house, they would say when there was more than one VRD on a street face there would be two options. Alternative one would be presented as one VRD would go away as soon as a license was surrendered and the other would be some form of amortization of the most recently licensed VRD. Escobar asked how many VRDs had surrendered their VRD endorsement. Tokos said he didn't have a number but there were specific people who didn't maintain their business licenses, and their endorsement went away. He said there would be added level of pressure for people to maintain their licenses if there were caps in place. Dailey said if you added something to say that if you didn't use, you lose, owners might make a different decision. Boxer suggested saying either the first VRD who surrendered their license went away *or* then the amortization. Andre thought that for fairness the longer they gave to owners meant they wouldn't create a hardship. He thought five years was low. Hanselman thought it would be hard for anyone to argue that it was a hardship when property values had increased so much in the last five to seven years. He wanted the amortizing be reduced to two to five years. Dailey said the amortization is less personal preference and more about what would stand up legally. Tokos thought this was why it would be important for the City Attorney to weigh in on this. Perry suggested rather than doing a range, come up with one figure for all things the AC discussed having a range when presenting to the Planning Commission to make it clear for them. Tokos said that was fair and could asked for people's input on what the amortization number should be.

7. **Policy Options for Code Amendments by Topic Area.** Tokos reviewed the Policy Options form. He said the document would be covered in the next meeting.
8. **Public Comment/Questions.** None heard.
9. **Adjournment.** The meeting adjourned at 2:49 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant