

MINUTES
City of Newport
Vacation Rental Ad-Hoc Committee Meeting #13
City Hall Council Chambers
Wednesday, September 5, 2018

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

AC Members On Phone: Charlotte Boxer

AC Members Absent: Lauri Hines, and Cheryl Connell.

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, Susan Davison, and Frank DeFlippis.

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, and Michel disclosed they had potential conflicts of interest. Dailey, Hanselman, Perry, Escobar, Posner, Boxer, McElroy, and Winsor stated they had no conflicts.
3. **Approval of Minutes from the July 25, 2018 Meeting.**

MOTION was made by Saxton, seconded by Winsor to approve the July 25, 2018 Vacation Rental Ad-Hoc meeting minutes as presented. 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. He noted there wasn't a draft code ready for the current meeting and it would be presented at the next one.
5. **Committee Requests.** Tokos covered the committee request documents that were shared with the AC. He noted the article submitted by Braulio Escobar. Escobar noted the article had been posted on a lot of different media outlets. Tokos noted the NPR program that was done from the outreach meetings. He reported the tally of attendees of the outreach meetings was 52 people, evenly distributed between the two meetings.
6. **Hotel/Motel Operator's Perspective on Vacation Rental.** Tokos introduced special guest, John Clark of The Whaler Motel. Hanselman asked how the vacancy rate affected tourist housing complexes that had been partnered with the City. He said none of the resorts had responded with feedback on the surveys sent to them and asked if resorts had concerns on VRDs. Perry asked Clark about his experience with The Whaler's work force housing. Clark noted that they had five VRDs and the units are an extension of the motel. He said it was common for hotels to not be too full before a holiday and then be filled over a holiday. Hanselman asked if Clark was seeing the same vacancy rates over the years. Clark said he saw no appreciable increase for his business. He thought the people who wanted to rent houses wanted more square footage and they were easier for families. He said he wasn't in favor of VRDs in R-1 zones. Clark said some of their workforce lived in Newport in subsidized houses with others living outside of the area because it was too expensive.

Perry asked if The Whaler Motel had trouble finding and keeping staff because of housing. Clark didn't think it was lack of housing but was individual to their motel. He thought other businesses had problems keeping skilled workers and the market drove what people were paid. Boxer noted her employees couldn't find places to live. She said of the 104 employees she had since she opened, about half had left because they had no place to live. Boxer thought The Whaler Motel units were different from VRDs. She didn't think R-1 and R-2 zones should have VRDs and felt VRDs were taking away from small businesses. Michel asked how people staying and cooking at a VRDs was any different than hotels with kitchenettes. Boxer didn't think it was the same because most hotels didn't have kitchenettes.

Saxton said as property values rose, it was tough for someone to have a standalone home without renting it. She noted she was on the Hospital Board and they had many new doctors coming into the area. She hadn't heard about anyone who wouldn't come to Newport because they didn't have housing. She said there was a fair inventory of homes on the market. Escobar thought it was a fair categorization that The Whaler Motel had something different from VRDs and noted the City determined these units were VRDs and was why they got licenses for them.

Perry asked Clark if there were any concerns in the area that the AC needed to know about. Clark thought the trend of VRDs would continue and not go away. Perry said she was asking if VRDs had affected their business. Clark did not think it had. Escobar asked if Clark thought the people looking for VRDs were looking for larger units as opposed to a motel setting. Clark said yes. Andre agreed that the VRD trend would be continuing. He said when people thought about running a VRD they thought it would be easy. After starting a VRD the reality would set in that it took a lot of work to run one. Andre thought some of the bad players would pay the piper because their VRDs hadn't been taken care of. Michel thought there would be some market correction because of this as well.

Escobar asked Saxton if there was a different set of rules when applying for a mortgage when the unit would be a VRD. Saxton said yes. Escobar asked if the people who couldn't buy a home without a VRD income, were being fair and honest on their loan applications. Saxton said she hadn't see hadn't see this and didn't see how they could do this. She also hadn't seen any loans being approved saying they had to have the VRD income. Tokos noted that a lender could put a stipulation in the loan that precluded using a home as a rental. Boxer noted this would be a standard deed of trust and a default on the loan. (33:30) Tokos said this wasn't something the City would get into. Saxton said for condos, if there is one VRD in the complex, they were considered "Condotels" and lenders wouldn't lend for the complex.

Perry noted an owner she knew who she rented out her unit for three months at a time and asked it was a VRD. Tokos said this was more than 30 days and outside of the context. Perry asked what the minimum days for considering a unit as a long term rental. Tokos said 30 days. Dailey said if it was solely for vacation purposes, then they could do 45 days.

7. **Refinements to Policy Options Based Upon Open House Feedback.** Tokos reviewed his memo and noted the summary of the public comments from the public open houses. Escobar asked what the timeline for policies would be. Tokos said there would be another hotel/motel owner guest and a draft code at the next meeting. This could be the last meeting with the option of adding a second one. Tokos explained it would then go on to the Planning Commission then to the City Council.

Perry referenced Page 2 of the Summary of Proposed Changes and asked when a VRD license would expire. Tokos said there would be an annual renewal and if they failed to renew within a window of time, the license would expire. Perry asked about the phase out of VRDs from residential zones. Tokos said in cases where there were more than one on a street face it was a standard. The discussion was to have the last licensed VRD phased out or whomever sold or let their license expire. Tokos explained that the renewal was due July 1st every year and they would have until August 15th to renew. If they didn't renew, it would expire. Escobar asked how the phase out would happen. Tokos said one way would be to apply the five year phase out when there was more than one VRD on one street phase. It would be easier when using another alternative where everyone was phased out. He said he could draft it either way. A discussion ensued regarding how phasing would work in commercial and residential areas. Tokos noted that when there was residential on one side of the street and tourist commercial on the other side, limits would not be applied there. Boxer asked if someone would lose their license if they sold their VRD and there were too many VRDs in residential zones. Tokos said a sale would be one way to do this and another would be if they didn't renew their license. Michel said so if they did street segments with license going way with sale, then hopefully the City could lean on the bad players and start to thin VRDs out.

Perry asked what a strike was for the three strikes you are out rule. Tokos said it was a verified circumstance of noncompliance such as advertising in excess of occupancy. Perry asked if the third party would handle enforcement. Tokos said they would work with the City on the initial strike. Then it would be on the City to handle strikes two and three with revocations being on the City to handle the third strike. Andre suggested the AC meet again in 2-5 years to see how the VRD concerns had been addressed.

Hanselman wanted to know how the timeline for phase outs was determined. Tokos said on Page 2 of the summary of proposed changes, under the phase outs of noncompliant VRDs, it stated that permit licensed VRDs in areas where they were no longer allowed could continue to operate for a 5 year period of time to realize a return on investment. The licensed VRDs in areas that exceeded density limits would phase out as the licenses expired. Posner thought this could take decades to phase out. Tokos said another option would be to phase out the VRDs that received the more current licenses. He said he would present both options as alternatives when bringing it forward. The AC agreed. Dailey wanted to see the City do more enforcement currently and thought they could have a straight forward way to handle enforcement until there was something decided by the City Council.

McElroy was concerned that the public thought the AC came to consensus that they wanted the caps to be set between 200-275. The AC was in general agreement that they hadn't agreed on any number. Tokos said his plans was to put in language that would allow the imposition of a cap. He would share it with a note that the AC discussed something around 4-5 percent and there was not consensus of what the exact number would be. A discussion ensued regarding what the AC wanted in terms of what number the caps should be set at. Tokos said if a cap was put in, it would be a specific number or a percent. He asked the AC to not do a percent as it was difficult to factor. Tokos said there had been no consensus on a specific cap

number. The AC agreed. Perry wanted to see the number be smaller. Tokos suggested the cap be at the current levels. Andre asked why it should be current levels. Hanselman said VRD issues arose in the fall of 2017, levels skyrocketed since then, and problems have been identified long before we reached the number of 200. He added that he didn't think VRDs should be allowed in R-1 and R-2 zones. A discussion ensued regarding phasing out in residential zones. Tokos said there could be language to advise policy makers to advise that the cap numbers could be set lower and say that caps were discussed without consensus. Then they could compare jurisdictions where they have more than just a tourist based economy versus just tourist to set the cap number. Perry suggested setting the number to 200 or lower when telling the policy makers a cap number. Tokos said they could and the point the policy makers would have to consider was if it was below the current license level, they would have to find out who to phase out. Hanselman said there was no reason they couldn't have another option in the public document to say maintain at current levels as well as the 220-275 cap.

Tokos reviewed the homeshare public comments. He said that in reference to homeshares, it was in the context of one dwelling unit renting out one or two rooms. Tokos noted that there had been a question on if accessory units would be considered homeshares. Winsor thought that if it was a separate unit, it was a VRD. Saxton thought that attached units would be homeshares. Tokos said if it had separate cooking facilities, it was an accessory dwelling unit. Tokos said a homeshare was when they were sharing the unit and an accessory dwelling was a separate dwelling unit. It would be coupled with B&Bs and was what the AC would expect to see. Hanselman asked about the public comment to allow rentals of 3-4 rooms for homeshares. Winsor said most jurisdictions allowed 1-2 rooms. Michel asked what the occupancy would be for homeshares. Tokos said all short term rentals would be subject to the same occupancy standards.

Tokos covered the map alternative comments next. Dailey said the AC wouldn't have to do both a ban in R-1 and R-2 zones along with map alternatives. Tokos said this was not an option currently. Perry agreed with Dailey and thought it was less clear on the maps than on the written forms. Tokos suggested forwarding the alternatives to say the maps were discussed and were methods they could use to prohibit VRDs in certain geographic areas, or they could go in a different direction if they felt it appropriate. Escobar asked if the AC met a consensus on what map alternatives they preferred. Tokos said no. Perry thought that providing the maps as additional materials to the Planning Commission would be sufficient with the AC's statements in writing. Posner noted that a lot of the public comments stated they wanted a phase out of VRDs in R-1 and R-2 zones. Tokos noted some said to prohibit them in commercial zones. He said they would structure the code so that the policy makers could impose one of those options or another one they might feel appropriate.

Tokos reviewed public comments on caps next saying there was general agreement that an alternative needed to go forward with a cap. Winsor asked about having a subset of caps for commercial zones. Tokos said it could be framed as a subset and the AC could say it needed further analysis, with a note that it could be done.

Tokos noted that currently a VRD license wasn't transferrable. He said the other options were to have licenses transferrable in commercial zones, or have transferability extended to residential areas on the other side of the street of commercial. Escobar was concerned it would be a rehash of what was already discussed instead of making decisions. Tokos said what he had heard was there was an agreement that there should be a cap but not a consensus of what the number would be. The AC agreed. Posner thought that a new owner should have to go through the process instead of just getting a license. Tokos said they would always have to do this. Andre thought it would be useful for the reapplication of new owner to be vetted. Tokos said there could be a challenge if they created a special class for transfers of VRD licenses. There would be some sensitivity for residential areas to have the VRD retaining the spot when there were caps. Dailey suggested adding the R-4 zones for transferability and no transfer in other residential zones. Perry thought the AC had talked about having it not be transferrable in R-1 and R-2 zones, but could transfer in other zones. Tokos noted that when numbers were at cap level and licenses weren't transferrable, it would be incumbent on the buyer to find out what the rules were. When they did, they would be told that the VRD would go on a waiting list. Hanselman was concerned about how the people on a waitlist was managed. Escobar asked if there could be a requirement that the transfer of the VRD license be an approval of the lender. Michel said no, and as a property asset manager she had been asked to send a lender an estimate on VRD income. Tokos said what he heard was to allow license transfer outside of R-1 and R-2 zones. Winsor suggested a transfer in R-3 and R-4 zones be a conditional use. Tokos said there would be different options presented.

Tokos reviewed proximity limits comments. He noted there weren't many public comments and he would be presenting a street segment limitation as the option.

Tokos reviewed complaint comments next. He noted the third party vendor wouldn't be a part of the code but would be a recommendation from the AC because they couldn't put anything in the code stating they should use a particular vendor. Perry asked if there would be three vendors considered through a competitive quote and asked if it was an RFP. Tokos said it would be below the threshold of a RFP. Andre asked how the process of choosing the vendor would be vetted. Tokos said there would be interviews with clients and a comparison of the different options each vendor could provide.

Occupancy comments were reviewed next. Tokos noted there would be three options to the two bedroom occupancy presented. Saxton asked if they would limit the number of bedrooms. Tokos said VRDs would be limited to five bedrooms, but B&Bs would not.

Tokos reviewed the third party vendor comments. He didn't see any comments in disagreement with this.

Tokos reviewed parking comments next. He said the AC had agreed the VRDs should be able to use the undeveloped right-of-way for parking. Then, when the right-of-way was developed, the use of it went away and their occupancy would change. Branigan asked what happened with parking when garages were converted to habitable space. Tokos said it would be a part of the annual renewal and owners would have to show where the parking was. Dailey suggested having spot inspections to manage this. Andre said this was a problem that existed even outside of VRDs. Michel said when spaces were no longer available for parking, and there was a complaint for parking, it should be an official complaint. Tokos said it would come up in annual renewals. There would be Fire Department spot checks that would catch these and there were other ways to catch this as well.

Tokos reviewed the signage comments. He said he would look at other model codes for the dimensions of signs that would include the name and contact number. Andre thought that signs were a moving target. He felt if there needed to be someone to respond issues within 30 minutes and an online roster of contacts. Saxton was opposed to signs because she saw burglaries at properties she sold who had signs. Andre suggested having alternatives to signs. A discussion ensued regarding the requirement of signs after which the AC was in general consensus to require a sign.

Tokos covered trash and landscaping comments. Dailey thought this was an enforcement issue. Tokos then covered event comments and noted most comments were against them. He covered fee comments next. He noted the third party fees would be covered under licensing fees.

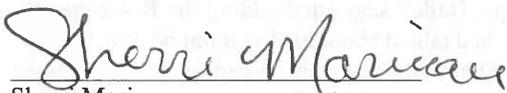
8. **Public Comment/Questions.** Susan Davidson addressed the PC. She said the VRD issue was bigger than VRDs. She told the AC that four years earlier she couldn't find housing and explained the hardship this was for her. She noted that realtors were promoting VDRs causing people who had been renting long term to change their units to VRDs. Davidson thought renters don't live the same way as residents. She noted the number of VRDs she found in Newport when she did a web search. The number she found was over the number of suggested caps.

Frank DeFlippis addressed the AC and expressed his concerns about the units that were only rented on weekends that were sitting unoccupied during the week and displacing long term rentals.

Tokos asked the AC for thoughts on the remaining comments. He said he didn't see anything drastically out of the realm of what the AC talked about. Tokos would bring a draft of the code that would be presented in two pieces: administrative and process. Andre wanted to thank the City staff for all the effort they did with coordinating the public open houses.

9. **Adjournment.** The meeting adjourned at 3:01 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant