

BRIGHTON SHORT TERM RENTAL SUB COMMITTEE MEETING MINUTES

Wednesday, September 7th, 2022 at 3:00pm

*Approved at the Town Council Meeting 9/13/22

ATTENDANCE

Jenna Malone (meeting chair), Carolyn Keigley, Barbara Cameron, Jeff Bossard, Carole McCalla, Cameron Platt, Kara John, Sally Anderson, Brian Tucker, Erin O'Kelley, Jim Nakamura, Alicia Gonzalez, Dan Knopp, Ben Bennett, Chad Smith, Wendy Smith, Mark Brinton, Soroush Zaryoun, John, Ulrich Brunhart, Doug Fry, Abraham Vanderspek, Mike, Wayne Dial, Cheryl Lenzer, Mark, 801-833-2493, 385-222-0405

PUBLIC INPUT

- Ben Bennet provided a written and verbal comment.

My name is Ben Bennett. My family and I are part time residents of the Town of Brighton at 6270 Rivers End Road. I have two points to share:

1. First, on enforcement. I applaud the council's efforts to enforce existing regulations. During the last meeting, the Mayor related an egregious interaction between a full time resident and a short term renter. Carolyn, mentioned that she thought all hosts would agree that what happened was not acceptable. I agree that there is NO excuse for the type of behavior that was described. As unacceptable as that situation was, I also think that facts are important. The situation described was an exception and not the rule (thank goodness); The facts are that during a recent 12 month period, the town received 12 complaints via the Granicus system...that is 1 complaint per month! More than half of these complaints originated from a single host! The vast majority of hosts are law abiding, responsible individuals who care about their neighbors and who care about the community. I encourage the committee avoid actions that punish all hosts based on the failures of 1 to 2 individuals.
2. Second, I want to talk about problems and solutions. During the last meeting, Mayor Dan asked about how to contact the property owner of an unlicensed short term rental. MSD suggested some ideas about levying a fine for the owner of record. Another member of the public rightly commented that 'a fine that the owner doesn't pay until they sell their property is unlikely to bring about the immediate behavior change desired.' Did you know that there's another way to proactively address issues like this with no costs to the Town? I realize and appreciate that we can suggest suggestions during our 2 minute allotment. As someone who wants to be part of the solution, it would be helpful to know a) the specific set of problems the committee wishes to solve and then b) a means by which specific suggestions to address these issues should be shared (as 2 minutes may not be enough time to share the solution). I also realize that everyone's time is valuable so it would be helpful to know if the committee is genuinely open to suggestions and ideas. During the last meeting, Mayor

Dan noted that he doesn't want to pit neighbor against neighbor. He mentioned that he doesn't want a family with small kids to have short term rentals all around them. We personally have two small children who love to spend time in the mountains. I want them to feel safe regardless of who their neighbors are. There is no need to pit neighbor against neighbor as solutions exist. There are people on this call who desperately want to work together with this group to find solutions that are balanced and fair for everyone involved. Please help us understand how best to do that.

Thank you.

- Chad Smith is thankful for the continued discussion, transparency, and public involvement. He appreciates fostering a community feel but he doesn't think density limitations are the best option. It opposes a livable cohesive community if one neighbor can rent 100% of the time and another cannot depending on the luck of timing or a lottery. It will cause resentment and contention. He hopes we don't misalign our neighbors' goals. He suggested limiting the days per year as the best solution to limiting density. He realizes its difficult to enforce, but it has been done successfully in other communities because the fines are strict enough or losing a license would encourage people to stay honest. He encourages us to use the tools we have to enforce the restrictions we have. He encourages us to expand awareness and focus on the bad actors rather than make restrictions that would prevent potential good actors from participating in the future.
- Kara John commented in response to an email question. A Granicus complaints hotline chart pdf was uploaded to the notice. It describes the path a caller can take depending whether they want to stay anonymous or receive a call back, etc. There was also a question about how the system identifies rentals with licenses vs no licenses. The MSD provides a monthly list of STR licenses which are then passed on to Granicus to mark as compliant in their system. They obtain data by crawling around 60 rental platforms and gathering data on those listings to then identify the addresses.
- Wendy Smith is from Silver Lake Estates #8. She thanked the committee for taking the approach of using the tools we have to handle enforcement. Density does not seem like the way to achieve the community we want. There should be a stiff fine the first time and maybe the second time they lose their ability to rent. Silver Lake Estates are ski-in properties, and it doesn't make sense to only allow a few of the homes to be able to rent in this area.
- Soroush Zaryoun is a part time resident at 6252 S Greens Basin Rd. He appreciates the openness and transparency that the committee is putting out for the residents. He doesn't think Solitude should be treated differently if we try to address density. Solitude should not be excluded from the density discussion since they contribute to the traffic in the canyon as well as share in the resources, trash collection, etc. It may be a different

population that stays at the resort vs the experience you get from staying in the neighborhood.

BUSINESS

Code Enforcement update presented by the MSD.

Sally Anderson, from the MSD (Municipal Services District) Code Enforcement Team, reported that although she was unable to attend the last meeting, it has been communicated to her that they will enforce all applicants who are in the process and who continue to rent. She asked for guidance as to whether she should be retroactively enforcing anyone who rented illegally since February or to start enforcing now and continue moving forward. Alternatively, she could charge a onetime fee of \$650 to anyone who has rented and then \$650 per day from now on.

Sally reported on the various letters that she sent out. In November, three kinds of letters went out to 828 property owners. The first were to non-compliant short-term rentals about how to apply for land use and a business license. The second letter went to Solitude owners for how to get a business license since they aren't required to go through the land use process. The third letter was a general information letter to all property owners to educate them on short term rental regulations.

The final letters went to those that were expected to be renting without a license and it explained the \$650 fine per day for continuing to rent. This letter did not go to anyone who had started the business license process.

Cameron Platt explained that the requirements and the fee schedule were published in the town code so even if a resident didn't receive the final warning letter because they were in process, they could be fined. We can either charge everyone a single \$650 fee to encourage them to get permitted and add daily fees if they don't comply or, we can go back and count reviews for anytime someone stayed since the amnesty period ended. That price could be reduced if they come into compliance. The initiative all along was for people to comply rather than collect fines.

Jeff Bossard pointed out that people have had a year to come into compliance, so it would be fair to fine a \$650 onetime fee for all violators. Since compliance has been our goal all along, we could be extremely generous and set a time frame of December 1st to comply before a daily rental fee of \$650 accrues.

Carolyn Keigley agreed with this.

Barbara Cameron had a call from someone who had been renting without a permit because she'd gotten feedback from others that no one cares if people rent without a permit. After speaking with this resident, Barbara thinks that it would be better to start enforcement now or by the December 1st date rather than implement retroactive fines since we haven't been enforcing all along.

Carole McCalla agreed with Barbara because she's been through the process multiple times for the properties she manages. She thinks people have been trying to get through the process, and in her experience, it isn't as smooth as it could be.

There are between 14 and 16 that are pending land use approval, and about 5 that have not started the process at all, which is a big improvement from where we started. Sally has visited these homes and has not yet caught renters at any of these properties. Sally sent emails to the pending applicants on August 17th asking people to reach out to the MSD to learn what steps they need to follow to complete the

process and that there will be enforcement for renting without a permit. They will be using reviews to go after the people who have not started the process at all.

Carolyn mentioned that we have given a lot of time to come into compliance and ignorance isn't an excuse to continuing to rent.

The difference between the previously used conditional use process vs the current permitted use process were discussed. Jim Nakamura from the MSD explained that the conditional use required the applicant to get on the Planning Commission agenda which could take several months, so without that step the current process is faster to move through. Some of the delays with the permitted use process can be because a property does not meet building and fire code requirements. Jim clarified there is not an inspection in the land use process. Plan submittals are how they review properties. If plans don't have the required information, then the MSD sends it back to the owner to make the needed changes. Once an application gets land use approval, the business license is relatively quick if they can complete a building and fire inspection. Brian Tucker added that the biggest cause of delays is that owners don't resubmit their plans when things need to be corrected. In some cases, they need a remodel permit before they can move forward with the land use permit. If they don't have water or sewer connections their applications aren't accepted.

Discussion on ordinance prohibiting Fractional Shareholders from renting short-term

Cameron Platt has not yet identified how to prohibit fractional ownership, but he thinks with more research he may be able to identify the solution. Jenna thinks that the community is aligned on not wanting big investment corporations to come in to purchase homes to be turned into short term rentals. It was clarified that this is not to prevent the properties that are owned by several family members. Many of the properties up here have been in the family for multiple generations. Sometimes they choose to rent to offset expenses when they aren't using it themselves.

Alternatively, what is happening in other resort communities is the sale of a house to many different families who may then opt to use their portion commercially as an STR for investment purposes. The issue is that it sets the stage for absentee landlords with no investment in the community. What we're trying to protect is affordable housing and the character of the community. It could be complicated to regulate the amount, or percentage of ownership because of property rights.

Discussion on ordinance limiting one short term rental per owner.

Cameron and Polly will do more research to determine how to legally enforce this kind of ordinance. Counter to Cameron's understanding, Jim Nakamura provided information that permitted use is like conditional use in that the permission stays with the property even if it is sold. If the use is abandoned with a year lapse without activity, then they must go back and reestablish the use. The business license is not transferable and needs to be reapplied for under new ownership. Barbara Cameron would like to exclude Solitude from the rule that an owner can have only one short-term rental. The idea is for this to apply in our residential communities, and it doesn't need to extend to businesses.

Discussion on what limiting STRs by density might look like.

Jenna Malone introduced the topic and commented that Solitude is in the Mountain Resort Zone (MRZ) which is different from the rest of the community. They are set up for lodging and have invested in extra law enforcement, trash pickup, and they handle their own snow removal. As a commercial zone they

have a totally different feel than a neighborhood such as Forest Glen. Solitude is a great place for short-term rentals. She is curious to hear how the community around the Brighton Resort feels about short term rentals and it may be similar to Solitude. Jeff and Carolyn shared an article from Steamboat Springs where they had created a map with color coated, stoplight zones. Green is commercial with no density restrictions; yellow areas would be for residential with some density restrictions, and red where STRs are not permitted. In considering density, Jenna finds it unfair that those with permits would be grandfathered in. She reminded that three violations in six months results in a suspended permit.

Carolyn explained that the communities that have worked on zones, such as South Lake Tahoe, have selected neighborhoods near the resorts and casinos to have no limits for STRs. Areas farther away are protected as residential zones. This was first put in place by the town and then by the county so that it will remain that way. Other towns have come up with requirements with so many feet between STRs so that one resident isn't surrounded. When a street becomes a row of rentals it's more like a commercial motel strip rather than a residential zone.

Jeff described a tier system that Tom Ward, from the Planning Commission, suggested. The first tier is for someone renting out a single room in their house which would be unlimited. The next tier is for renting out an entire house but of a small size of three bedrooms or less. Homes that have more than 4 bedrooms would have a bigger impact and would be limited further.

Carole agreed that Brighton and Solitude are different areas. The main complaints come from Silver Fork and are more of an issue of bad hosting than an issue with rentals themselves.

Barbara likes the idea of stoplight zones as well as looking again at limiting the number of nights a place can be rented. Our last deliberations were close at 180 day maximum. She also thought of limiting rentals based on road grade. Properties on a 12% grade could be prohibited from renting.

PUBLIC INPUT

Mark Brinton appreciates the hard work the committee is doing. He has also been reading about the solutions in Steamboat Springs and Tahoe in the news and he recognizes these are challenging questions. As someone who is permitted, he acknowledged it takes a bit of time and effort, but people should be through the process by now. In future deliberations, he encouraged the subcommittee to take into consideration the perspective of those legally renting under the current laws and how these changes will affect them.

Cameron Platt asked for direction on how the committee would recommend limiting density. He also confirmed that we can't retroactively change things for people who are compliant. Regarding enforcement for limiting the number of days that can be rented in a year, it will be labor intensive to enforce. There must be evidence to prove how many days they've rented. We could require people to provide documentation to help. He also asked for guidance on what number or percentage the committee numbers are comfortable with. Zones may be the best way to set limits rather than across the entire town. It was decided that more community feedback is needed to help determine the desired limits.

Soroush Zaryoun thanked the subcommittee for letting the community be a part of this decision making process. He's had the cabin since July of 2020. As soon as he received the letter, he stopped renting which resulted in significant cost to him. He learned today that he could have continued renting illegally

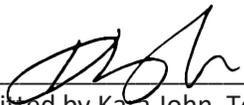
and only been slapped with a \$650 fine. It raises the question of equity. He didn't qualify for a business license because of no year-round water. He's been working with the water company to change that. He started his permit in May and it is still in the land use review. He's been very prompt with his responses throughout the process. He is willing to share his experience with anyone willing to listen.

Chad appreciates the conversation where people are talking about varying levels and degrees of nuance to solve specific problems in specific areas. He's glad to see it won't be a one size fits all for the whole canyon. He will get back to Jeff with examples and solutions.

CHAT BOX COMMENTS:

00:08:02 Ben Bennett #501: Good afternoon. I'd love to share some public comments when the time allows. Thank you

Jeff Bossard moved to adjourn the meeting and Barbara Cameron seconded this. The meeting was adjourned at 4:38PM.



Submitted by Kara John, Town Clerk