

CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

February 15, 2018

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 8:30 a.m. in the City Council Executive Conference Room on the 15th day of February, 2018, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT:	Councilmember Castleberry and Chairman Allison
ABSENT:	Councilmembers Holman and Karjala
OTHER STAFF PRESENT:	Mayor Miller Councilmember Bierman Councilmember Wilson Mr. Jeff Bryant, City Attorney Ms. Megan Conner, Legal Intern Ms. Susan Connors, Planning and Community Development Director Mr. Terry Floyd, Development Coordinator Ms. Janita Hatley, Code Compliance Inspector Mr. Steve Lewis, City Manager Ms. Regina Oliphant, Administrative Tech III Mr. Joe Schier, Code Compliance Inspector Ms. Jeanne Snider, Assistant City Attorney

Item 1, being:

DISCUSSION REGARDING SHORT TERM RENTALS (COMMERCIAL HOME SHARING SUCH AS AIRBNB, HOME AWAY, AND VRBO).

Mr. Jeff Bryant, City Attorney, said this has been a collaborative effort by several staff members, the Finance Committee discussed the revenue side of things and they have been working with the Community Development and Code Compliance Divisions. He said Ms. Jeanne Snider, Assistant City Attorney, has a presentation for the committee today.

Ms. Snider said overall Airbnb is one of the most popular internet platforms for the Short-Term Rentals (STR) and others are Home Away and Vacation Rentals by Owner (VRBO); however, there are a number of STR internet-based platforms available as participants in the “sharing economy”, but also referred to as home sharing. She said the same issues come up with UBER, Lyft, and the taxis. These internet based platforms list properties; allowing them to discover and book accommodations around the world from a laptop or phone. She said people register property and rent out rooms, apartments, houses, cabins, etc. while charging a host fee; offering a residential/cultural experience for the guest, not just a hotel room, but the flavor of the area/city with a better value and more space. However, STRs have become a concern throughout the country and with a quick Google search, anyone can find articles, letters to the editor, and sample ordinances surrounding the concerns. She said STRs are rented out for less than 30 days and with all the cities struggling with this concept across the country, they have found the owners may/may not be present and some ordinances require this and some do not. She said overall the taxation of these rooms and housing laws are the main regulatory/legal issue STRs face everywhere.

Ms. Snider provided a brief overview of the taxation piece discussed by the Finance Committee and discussed transient Guest Room Tax for on-line guest hosting. She said a hotel is defined as three or more rooms, not occupied by permanent residents, leased thirty days or less, and is the definition included in the City's Zoning Code for many years. She said the current hotel tax rate is 5% and it is difficult to estimate revenue; but at that time, the information the Finance Committee Director had shown approximately \$10,000 - \$30,000 annually. She said figuring out how many are available on a daily basis is not an easy task and fluctuates daily. She said Airbnb is the only one at this point who has presented the City with a Voluntary Collection Agreement and she has collected draft ordinances from Oklahoma City who signed a Voluntary Collection Agreement with Airbnb back in the fall but have not changed any of their zoning laws. She said the agreement presented to the City places limits on frequency of audits and an anonymous transaction basis. She said what information they receive from Airbnb is basic room number and the count but not the addresses of the home rented, and they are not required to produce any personally identifiable information for guest/hosts.

Ms. Snider said during the research on several different platforms, staff counted the number of listings and the number of beds, but exact addresses were not given until you get further into the booking of the property; however, an overall map of the area would be offered.

Ms. Snider said the complaints received regarding a property west of I-35 are not uncommon and very similar to those found across the country and listed as follows:

- Illegal hotel/business
- Parking
- Loud guests
- Concern for transient people in the neighborhood
- Property owner has received letters regarding violation
- Has legal counsel
- Asked to voluntarily suspend operation

Complaints found across the country:

- Traffic and parking issues
- Loud parties
- General residential disruption
- Property maintenance
- Uneasy feeling caused by constant/changing influx of "strangers" in neighborhood
- Possibility of turning residential areas into defacto hotel districts
- Complaints from hotels/inns losing business; not held to same standard

Ms. Snider said some similar operations in Norman are Rooming and Boarding Houses, e.g., sorority and fraternity houses, former Women's Resource Center, and those were established by a special use permit granted by the City Council after review by the Planning Commission, as well as, other restrictions applied. She said there are seven Bed and Breakfasts in Norman established by issuance of a Conditional Use Permit and include additional requirements, e.g., single-family dwelling and the owner must reside on the property. She said there are 22 hotel/motel operations in the City that also have to acquire an annual permit.

Ms. Snider said there are a variety of approaches to regulate STRs such as:

- Limiting them to specific districts; rural properties
- Lot size
- Setting a distance from arterial roadway to limit traffic in the neighborhood
- Requiring a 24/7 contact person
- Owner/operator on the premises
- Limiting rooms, number of days per year
- Posting noise and other ordinance requirements
- Permit fees; application
- Ban on STRs

Ms. Snider said many of the cities have been struggling and dealing with the same issues and how to regulate them. She said Asheville, North Carolina, banned STRs, but they also have a resort district; limiting STRs to that district only.

Ms. Snider said American Hotel & Lodging Association (AHLA) argues that most of Airbnb's revenue is driven by commercial operators who rent out more than one property, operating like a hotel; with 80% from whole-unit rentals where the owner is present, and 20% where the owner is not present. AHLA has model priorities much like other cities as follows:

- Primary residence
- Cap number days rented per year
- Occupancy tax and other fees
- Obtain license
- Inspections
- Adequate liability insurance
- Limit number of guests per room
- Accessibility laws
- Noise and other nuisances that interfere

Ms. Snider said the American Planning Association (APA) said that some states are looking at preemptive legislation to prevent patchwork of local rules/regulations, e.g., Norman has it one way and Oklahoma City another. She said the APA supports the ability of municipalities to set their own regulatory standards and are working on identifying the best practices related to local regulation of a sharing economy and evaluating state legislation related to STRs. She said APA thinks it is really important to tailor this to what is unique to individual cities and Norman has a lot to offer other than Oklahoma Sooners football game days, e.g., our easy access to Bricktown and Thunder basketball.

Ms. Snider summarizes the issues as follows:

Voluntary collection Agreement with Airbnb; should we move forward with Agreement

- Land clashes principally focused on single-family residential neighborhoods and much of the tension is in this area of issues. Commercial areas do not seem to create the tension as seen in the single family residential neighborhoods.
- Operation of a hotel is not currently allowed in R-1 zoning districts
- Specific regulations for STRs are not yet addressed in Norman Code
- Complaints from Norman neighbors very similar to concerns throughout the country with the new trend
- Trends seem to be a balanced approach – neither outright prohibition nor absence of regulation
- Cities have approached regulation in different ways

She said some of the approaches staff has seen are as follows:

1. Balanced approach regulation
 - a. Business operation license requirement
 - b. Limit on eligible locations (ex: number per street, near major arterials)
 - c. Limit on number of days per month/year
 - d. Limit to weekends only
 - e. Limit on number of guests (bedding accommodations)
 - f. Amendment to zoning code to allow in R-1 zoning
2. Compliance issues
 - a. Complaint basis (mostly used)
 - b. Staffing for more proactive enforcement
3. Consideration of Voluntary Tax Collection Agreement – before or after development of STR regulations

Mr. Jeff Bryant, City Attorney, said it would help staff if they could get some direction from Council about how it should be regulated because there are such a variety of approaches and narrowing down that information in order to create a draft for further discussion would be very helpful.

Chairman Allison said one of the biggest concerns over everything with this discussion is the preemption issue. He said the same has occurred in the past and another example is the plastic bag issue; preempting them on the issue with just a discussion to have taken place.

Councilmember Wilson asked if staff has spoken with Oklahoma City. Ms. Snider said she did get a copy of the ordinance, has not yet spoken with the attorney working on the topic; however, it has not passed yet in Oklahoma City. Councilmember Wilson said a good approach would be to have a registration system such as a permit or license, and giving the neighbors an opportunity to protest.

Chairman Allison asked Ms. Susan Connors, Planning and Community Development Director, since it was not allowed in R-1, are there still other areas that it could be done. Ms. Connors said there are about five other residential zoning districts where it could be done; R-1, R-3, and RM-6 are the districts mostly used in the city. She said R-1 is mostly single family areas, around the campus used to be R-3 but is now zoned Center City Form Based Code, and RM-6 are apartment complexes.

Councilmember Wilson asked if R-1 districts are the only districts Airbnb is happening and would it be more important to push towards apartments. She said if she rented out her house no one would know in an agricultural area.

Councilmember Bierman said one of her concerns is in regard to insurance. She said with auto insurance in regard to Uber, it does not cover you if you are involved in an accident and her concern is with insurance requirements and coverage with regard to homeowners insurance. She said the individual homeowner's insurance carrier will not be pleased to know you have a number of individuals coming in and out of your home without the additional coverage; questioning whether or not they would cover someone getting hurt on said property. She said her concern with restricting STRs to only multi-family housing limits those STRs to only apartment rentals for the most part. She said there are good licensure requirements they should have but does not necessarily agree with restricting out of R-1. She said she polled her neighborhood and discovered there are a couple of properties in her neighborhood and those properties are rented out when they go out of town. However, she also likes the requirement for 24/7 contact, but will not stay at an Airbnb if someone is living on the property. She said that will also impact a person's desire to stay at an Airbnb property here in Norman. Airbnb is becoming more and more common and it is her preferred way to travel as she often gets more amenities for the price staying in a home versus a hotel; therefore, she does not want to restrict them too greatly but does have concerns with the insurance requirement which definitely needs to be addressed. She said she would like to know how other cities have handled that particular piece of the process. Mr. Bryant asked Council to clarify

that they are not in favor of restricting to on-site only; requiring a person to be living on property. Councilmember Bierman said yes, but a contact person is important.

Councilmember Castleberry said there is a company called icompasstech.com and they can give the City a list of every Airbnb or VRBO in our area at the cost of \$5,700 one time and \$400 per year annually thereafter. He said they will give the City a registration of everyone listed on the shared property sites and an updated list every year. He said their justification or business motto is that if you charge a \$100 per year registration, it will easily cover their cost. He said we can get the information; however, it is not fair to the hotels, motels, and bed and breakfasts in this town for people to stay at a STR and not pay a motel tax. Councilmember Bierman agreed. He said if they want to go to Airbnb or VRBO to help them advertise their property, that is fine, but it does not relieve them of their responsibility and can be compared to the collection of sales tax. He said they should get the list and charge the users of Airbnb, VRBO, or whomever the appropriate taxes and fees; eliminating the unfairness created to the hotels and motels in the area paying for the investment and maintenance of their properties, and undercutting them because they have lower costs to do business. He said his main concern is to get them registered and make sure we are collecting the hotel/motel tax. He said it is usually considered on a complaint basis and no different than having a loud party at a hotel; complying with the same requirements, e.g., parking and noise. If there is a problem at a location, maintaining those concerns is part of the registration process and done so by giving the City permission to come on-site to investigate alleged concerns. He said there needs to be access to the property the same as with a hotel; however, he does not want to limit what someone can do with their own personal property, e.g., if he wants to rent out a room in his house, it is his business, but if it becomes a problem for the neighborhood, now it is their business. He said regarding the concerns with parking and noise, if they want to be in business, they must be licensed and registered and this is not an unreasonable requirement.

Mayor Miller said she agrees with most of what has been discussed and the fact that we expect the hotels, motels, and bed & breakfasts to meet certain requirements; therefore, Airbnb and all others should have to meet certain requirements as well. She said staff is going to have to review the Austin, Texas, model with different types because she does not agree that they need to be banned in single-family. She said the biggest problem in Norman could be that the city is already overbuilt on apartments which could turn into STRs without an owner on-site. She said she is more predisposed to allow them in R-1, and they be owner occupied because she can foresee the many apartments with owners not living on premises, sometimes not in state, and not community involved. Councilmember Bierman asked if a good compromise would be a local contact. Mayor Miller said the local contact issue is the same thing they ran into when they discussed the registration for rentals. She said they try to acquire contacts but difficult to get those parties to comply with the requirements. Chairman Allison said, for instance, the issue they have right now with the property that is currently causing problems, the contact they have is not cooperating or helping with the issues. Mayor Miller said there should be fines if the rules are not followed and consequences applied up to the loss of their permits.

Chairman Allison said that Councilmember Castleberry touched on one of his big points as it is not fair for the hotels, motels, and bed and breakfasts with a lot of money spent on safety systems, e.g., fire alarms and sprinkler systems. He said from his neighbors in Ward 8 there has not been much support for the STRs and predominately due to the family driven neighborhoods. He said he heard reference to a "resort district" and considers it as a way STRs could be accomplished. If individuals feel that the Campus Area would like to allow STRs during game days, then Council should look at allowing that; however, if the majority of Council is not for banning in R-1, he would like to see areas or districts where it is allowed. He said Ward 8 family driven neighborhoods do not want STRs in their neighborhoods. He has stayed at STRs but it was in a tourist area and not a family neighborhood. He said when the people in the Campus Area see what the true ramifications are with allowing STRs, more may be against it, but Ward 8 and some of the neighbors present in the audience are not supportive of STRs in their neighborhoods.

Councilmember Wilson said she agrees with Mayor Miller as far as the different types and maybe R-1 has some of limitations, e.g., weekends only, number of guests or number of days per month the rental can be available.

Chairman Allison said he has concerns if Council creates the licensing requirements, will they be considered a business and if they are renting the property out just once or twice per year, the owner is not going to acquire the license as it will not be worth the expense. He said then you have those that feel that if they are going to go to the expense of the licensing, they are going to want to rent it out a certain number of times per year to offset the expense. Councilmember Wilson said if a person is renting out their property a couple times per year, are they going to just take their chances and be nice to the neighbors, e.g., someone renting out their property for Spring Break and not causing a nuisance compared to someone who is running this as a profitable business.

Councilmember Castleberry asked if the neighbors get together to petition the ban of STRs, can they leave it up to the certain areas to decide if they approve or disapprove. Councilmember Bierman said the Homeowner's Associations (HOA) have covenants that cover that. Chairman Allison said the challenge with HOAs is that HOA covenants are not enforced by the City. Mr. Steve Lewis, City Manager, said during the research, staff found many HOAs are banning them across the country by amending their covenants and restrictions.

Councilmember Wilson asked how the State can preempt the measures governed in the HOAs and if the State says you cannot regulate STRs, can the HOAs still have their own regulations. Mr. Bryant said the State Statutes are for prohibiting cities or other governments from doing regulations but covenants are private contracts with the property owners.

Councilmember Bierman said when she has traveled with Airbnb, it has been for a tourist environment; however, her parents have stayed in Airbnbs here in Norman to be closer to family and chose that option over an area hotel because the drive was shorter. She said not everyone stays at Airbnb to be in a touristy area, some choose the residential options to be closer to family. She said they can place their property on Craigslist and not be part of one of the other platforms, but what Airbnb does provide is that the reviews and the amenities you are seeking. She said if we put too many restrictions on the STRs then property owners will put their property back on Craigslist making it harder to enforce the requirements and manage concerns; however, she thinks licensing and regulations should be part of this. Airbnb provides the platform but people have to reach a certain level to be successful on Airbnb. She said if all the other cities require the collection of tax, the property owners will ask Airbnb to process the taxes with the payment process.

Councilmember Castleberry said Council can get Airbnb to do this voluntarily or cities can force them to do so by sending this to the property owner and bill them for the taxes due. Councilmember Wilson said this is a good idea; reaching out to iCompass for the database, sending letters, giving the property owners a grace period to make their appropriate payment before the collection process begins.

Mayor Miller asked if staff had enough information to create a draft and, if not, what more do they need? Chairman Allison said there are some challenges and stated that Ward 8 does not have an area that is not family driven and the discussions with Ward 8 residents have resulted in disapproval. He said there are a few citizens here from Ward 8, and Ward 4. Those from Ward 4 expressed they would like to see a balance in the approach, expressed this is a new kind of experience communities are offering, felt it would next to impossible to ban completely, and expressed concerns with the construction of ten, twelve, or fourteen bedroom homes constructed for use of STRs and disrupting R-1 neighborhoods no matter where they are.

Chairman Allison said Code Compliance is not available on the weekends to address issues with parking and Code violations, Parking Services could address parking issues and issue tickets; however, they do not have jurisdiction on zoning issues. He asked if Code Compliance can issue tickets and if so, they are

not doing so. Mr. Bryant said yes, but they are waiting for some feedback from Council. He said operating a hotel in R-1 is not allowed, so if there is R-1 zoning such as with the Greenwood property, operating as a hotel and with facts supporting illegal zoning use, then they have notified the owner of the zoning violation and are moving forward to file charges in Municipal Court. He said until Council decides to allow the business/commercial use in R-1, complaints will progress to filing of charges.

Councilmember Castleberry asked what the definition of a hotel is. Councilmember Wilson said not occupied by permanent resident, three or more rooms, and leased for thirty days or less. Mayor Miller said if the different types in R-1, e.g., owner occupied, limited number of nights, and the number of people allowed would help protect the neighbors.

Ms. Joy Hampton, Norman Transcript, Journalist, said she looked at Airbnb and there were about 300 sites, about three of them were rural and most are in the core area; however, there are apartments in Ward 8 with Airbnb units and used for business professionals. She said in her and her children's observations, an area in core Norman, to include a whole street, has "For Rent" signs at all the residences except one home, largely due to the stock market. She said she is not supporting or opposing them, but wants to increase the awareness that there will be neighborhoods like this, and feels it is very justified for those to turn into Airbnb sites. She asked if the disruption of an Airbnb to the one or two neighbors left on the street would be any different than student rentals, and added there are several streets in the area that will lose a lot of money if the Airbnb is not allowed.

Local bed and breakfast owner would highly recommend Council look at the regulations and ordinances for bed and breakfasts in order for those to be established in any of the residential zoning areas, and to include insurance and regulations needed for the safety of the homeowner and the guests.

Councilmember Kate Bierman left meeting at 9:40 a.m.

Councilmember Castleberry asked for the definition of bed and breakfast. Ms. Snider said the Zoning Ordinance describes a bed and breakfast as an accessory residential unit, must use a conditional use permit, and there are two different types. One definition is a single-family dwelling with guest lodging as a secondary feature which must have conditions only allowed in residential or cultural districts, no more than four guest rooms, meal services to the residents, and owners shall reside on the premises, parking standards and architectural and landscaping requirements. The second type is a residence because there are more guest rooms, more parking issues that have to be met, only committed in the multi-family dwelling district, one guest room may be permitted for so many square feet, maximum of eight guest rooms, meals limited to residents and owners shall reside on the premises.

Councilmember Castleberry said the Committee needs to have more discussion, but would like to have a first draft to present to the citizens.

Chairman Allison would like to have VisitNorman meet with local bed and breakfasts owners and the Legal Department.

Ms. Thompson, Ward 8 resident, said an R-1 zoned neighborhood is a promise from the city that the zoning of single-family residential homes will stay the same. Other residents in Ward 8 expressed they bought in R-1 and do not want a hotel, HOA covenants prohibit the current use of the Greenwood residence in their neighborhood, police have been called for parking and other issues at the residence on Greenwood Drive, Ideal Homes was contacted; however, the residents jointly expressed their frustration with non-compliance in the R-1.

Mr. Bryant said the current R-1 zoning does not allow them to become a hotel, a letter has been sent noting there is a violation of the R-1 zoning and they need to stop immediately and if not, they will proceed with filing charges in Municipal Court, which they are at the filing charges stage.

Ms. Hampton asked if the Council would be looking at caps regarding property size. Councilmember Wilson would like to see a Special Use Permit to include some of the limits discussed, have pre-developmental informational meetings, and then the neighbors are given the opportunity to approve or disapprove but also giving the opportunity to capitalize on the new changing environments.

Chairman Allison said they need to give direction to staff regarding the Airbnb tax agreement and if they should hold off on the agreement to eliminate any concerns that if it will be allowed in the future. Councilmember Castleberry said his argument to that is that if some sells something illegal they still owe taxes whether illegal or not.

Mr. Bryant said he would like clarification if they are moving forward or not with the agreement presented by Airbnb for collection of taxes and he does not think they will get a better deal on the Voluntary Compliance Agreement. Chairman Allison said it is not worth the amount of money collected in order to not have to fight any issues or protect them in court if temporarily allowed. Councilmember Wilson said we are collecting the money from Airbnb, not the property owners individually, and do not know where that money is coming from and whether the property is in compliance or not. Mr. Bryant would like to know if this needs to be a Study Session or place the item on the City Council Agenda. Chairman Allison said he would like full council discussion due to a wide variety of opinions and neighborhoods involved. Councilmember Wilson would like to see this handled as a priority.

Items submitted for the record

1. Memorandum dated February 9, 2018, from Ms. Jeanne Snider, Assistant City Attorney, through Mr. Jeff H. Bryant, City Attorney, to Council Oversight Committee with Attachment 1, Voluntary Collection Agreement for the City of Norman Transient Room Guest Tax; Attachment 2, Austin, Texas, Code of Ordinances; Attachment 3, Boulder, Colorado, Code of Ordinances, Short-Term Rental Housing License requirements and application documents; Attachment 4, City of Oklahoma City Code of Ordinances and District Use Regulations; Attachment 5, Benchmarking Summary Chart, and Attachment 6; Oklahoma State Courts Network, Municipalities Prohibited from Requiring Registration of Real Property
2. Power Point Presentation entitled City Council Oversight Committee, Short Term Rentals, dated February 15, 2018

ADJOURNMENT:

The meeting adjourned at 10:00 a.m.

ATTEST:

City Clerk

Mayor