

CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

February 14, 2019

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 4:03 p.m. in the City Council Conference Room on the 14th day of February, 2019, 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 Bierman, Holman, Scott and
Chairman Clark

ABSENT: Councilmembers Carter, Castleberry, and
Hickman

OTHER STAFF PRESENT: Mayor Lynne Miller
Councilmember Kate Bierman
Councilmember Alexandra Scott
Ms. Mindy Aynes, Municipal Accountant I
Mr. Terry Floyd, Development Coordinator
Ms. Jane Hudson, Interim Planning and
Community Development Director
Ms. Beth Muckala, Assistant City Attorney
Ms. Jeanne Snider, Assistant City Attorney
Ms. Mary Rupp, Interim City Manager
Ms. Kathryn Walker, Assistant City Attorney
Ms. Regina Oliphant, Administrative Tech. IV

Item 1, being:

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

Ms. Jeanne Snider, Assistant City Attorney, said during the last meeting in November, Staff's presentation was related to Special Use in the Center City Form Based Code and further discussed if they wanted to utilize the Short-Term Rental (STR) Helper Monitoring Service. She said there was much discussion at that meeting about R-1, Special Use, and with neighbors and concerned citizens in attendance; however, the committee members were not in consensus on all matters although everyone agreed licensing was appropriate and that notification was important. She said the packet information includes a draft showing the information removed from the Zoning Ordinance and placed under Licenses and Occupations; creating a new article on STR. She said under licensing there were general conditions; however, those can be changed and are unique to the community, e.g., how many STRs can an applicant be allowed, accessory structures, no commercial or social events, appearance of the building, the beneficiary of the trust is a natural person, sound and music, parking violations, and the need for a local contact. She said then it continues on into what the license application requires, e.g., name, street address, certification, property owner, insurance values, payment of Hotel Occupancy Tax, and also a requirement for notification. She said the notification requirement is very similar to what a notification would be if it were a Special Use giving property owners within a certain range notification that there was a STR in the area; however, no further action would be required other than the notification. She said they previously discussed inspections and in the Ordinance, if approved, an inspection would be required. Currently, a code inspector, accompanied by a member of the fire department, inspects all hotels, motels and bed and breakfasts annually, as well as, all fraternity and sorority houses. At this time, there are approximately thirty hotels and motels, less than ten (10) bed

and breakfast locations, and approximately one hundred fifty (150) STRs operating in Norman. She said the cost of the license fee also needs to be determined for STRs.

Ms. Snider said for comparison, a bed and breakfast fee of \$100 includes a \$50 inspection fee and a \$50 permit fee; however, in addition to the \$100 fee, a bed and breakfast also pays a one-time fee for a Special Use application fee of \$400. In addition, the inspection process could be cumbersome for our Code Compliance Officers with only four officers and an issue that needs to be resolved. During the last meeting, they discussed the applicant hiring a private inspector, making that part of the application packet, but had not fine-tuned that.

Mayor Miller asked if there are private inspectors available for hire for this type of inspection and is this what Oklahoma City or other cities require. Ms. Snider said she thought so but had not contacted any of them. She said in the last sixty days, OKC passed an Ordinance to grandfather in all those STRs already operating. She said those thereafter have to acquire Special Use.

Councilmember Scott asked if Oversight Committee is not recommending Special Use, and if so, why not. Ms. Snider said at the end of the last meeting the majority of the committee members did not want to use Special Use in R-1 or in any other zoning district and directed Staff to bring back information regarding licensing, not Special Use.

Councilmember Scott asked if it is still possible to include Special Use or will that hold up the process. Ms. Jane Hudson, Interim Planning and Community Development Director, said they would create the language for the Ordinance as directed by the committee, and then move forward to Council.

Councilmember Scott asked the Chair if councilmembers could make a recommendation for Special Use. Chairman Clark said they had discussed Special Use and redirected to licensing

Ms. Hudson said Special Use is a zoning application not re-zoning and applicants would be requesting Special Use within the R-1 District. She said there is an application fee and the applicant has to obtain a certified ownership list, which is an additional fee at approximately \$200. She said for Special Use, an applicant would attend a pre-development meeting, go before the Planning Commission, and then present to City Council.

Councilmember Bierman added that approximately one hundred fifty-seven (157) STRs are currently operating in Norman.

Councilmember Scott asked if not grandfathered in, would all have to apply for Special Use. Mayor Miller said Oklahoma City grandfathered those in that were already in operation, and the committee discussed grandfathering in as well, so staff would not have to go out and inspect those locations already in operation.

Councilmember Bierman said whether they have Special Use or not, they are required to have an annual inspection with the annual licensing.

Councilmember Scott said for the sake of her constituents, she would like the Committee to consider Special Use.

Chairman Clark said the only way she would feel comfortable with Special Use is by grandfathering in existing establishments, but still requiring permitting and licensing. She said she approves of the requirement of information posted and provided for guests, and she likes how it informs renters what noise and parking ordinances are required and will address the issues neighborhoods are having.

Mayor Miller said if they grandfather them in, the City would still ask them to apply for permits and licensing; however, then the license could be revoked if they do not comply with the Ordinance.

Ms. Snider said the monitoring company said there were approximately one hundred fifty-six (156) STRs operating in Norman; however, it is important to find out exactly how many are out there, determine how many nights are available, and the rates charged for those locations rented out monthly because there may be some that are rented out only for a couple of nights. She said the monitoring company would be able to give us the physical address, the owner's name, the average number of nights rented, and more of the information that staff is seeking with regard to the activity in our community. Chairman Clark said she is comfortable with the licensing and the monitoring service, but wondered if the information they find would change how they approach this issue.

Councilmember Bierman said that even though they might have one hundred fifty-seven (157) STRs in a calendar year, more than half of those might only have rented a couple times per month, or only during holidays. Chairman Clark said she understands but will the information they receive effect how they decide whether to grandfather in or not. Ms. Snider said it might make a difference to those that have the STRs and if they are only renting out twice per month with minimum activity, they may choose not be a STR to avoid the licensing and inspection processes. She said if the STRs are not that active they may choose not to participate as a STR.

Councilmember Scott asked if they are still considering an age limit that would not allow those under the age of 21 the ability to rent the STRs. Ms. Snider said the language could change; however, it is still included in the Ordinance as there had not been any further discussion about the age requirements. Councilmember Bierman said Airbnb has a minimum age limit of 18. Councilmember Scott added the age limit should maybe be under the discretion of the homeowner.

Mayor Miller asked if hotels, motels or bed and breakfasts have an age limit. Ms. Phyllis Murray, owner of the Montford Inn, 322 West Tonhawa, said the age limit, allegedly claimed under state law, is 21.

Councilmember Bierman said with her experience in other states, hotels or motels require at least 18 years of age for the rental. Councilmember Scott asked Ms. Snider to find out if there is a state law restricting the age to 21. Chairman Clark said she approves of the age of 18 because the same rules apply with licenses revocable if the residents are not following the rules established in the Ordinance; however, the property owner could place higher standards in their contracts if they choose to do so, and would love to see what State Law requires.

Chairman Clark asked if the other committee members want to grandfather in existing locations and require Special Use which would include the process of pre-development, Planning Commission, and City Council. Councilmember Scott said she would like to see how often the current STRs are being rented out, and then decide if certain criteria are required to grandfather. She asked if they were not rented often, instead of paying fees, would they consider them a regular rental property. Chairman Clark said they were applying fees either way but if requiring Special Use then the additional fees for that process are more expensive.

Chairman Clark asked staff for their thoughts on grandfathering. Ms. Hudson said they need more information before they can make a ruling on grandfathering. She said she is curious to see what information the monitoring service can provide; allowing them to make a better decision based on the number of STRs and the number of nights rented for each one. She said there were several attendees

at the last meeting as well as this meeting that support Special Use and she agrees it is important to acquire that information before determining grandfathering any of the existing properties.

Councilmember Scott asked if they were grandfathered, would it only be those that are not renting as often or all of them. Ms. Hudson said if they grandfathered, she questioned Staff's ability to pick and choose.

Councilmember Bierman said her concern with Special Use in general is with a basic contract they get around everything and they can easily list their house on Craigslist.

Chairman Clark asked if they could close that loophole in the language, e.g., this property cannot be subject to thirty-one day rentals. Councilmember Bierman said a thirty-one day rental becomes a long-term legal rental. Licensing would require all the safety features they need to provide and then if it becomes problematic, they could increase to Special Use. She is concerned about doing something that would push the properties in a different direction where the City does not have access to the monitoring, have the safety feature requirements, or the notification area. She wants to make sure the City has everything it needs to keep the neighborhoods safe and noise complaints in check.

Chairman Clark said the Committee is considering grandfathering everyone, but then Special Use moving forward requiring permit fees for everyone. Councilmember Scott said she thinks they should consider Special Use. Councilmember Bierman added there were two other councilmembers in attendance at the last meeting that were not in favor of Special Use.

Chairman Clark said she wants to get the additional information for the monitoring service. Mayor Miller agreed additional information is needed before making any decisions.

Ms. Murray asked if the monitoring company monitors only Airbnb. Ms. Snider said they monitor all of them and sweep between twenty and fifty platforms daily, but not sure if they catch those on Craigslist.

Chairman Clark said she is comfortable moving forward with contracting the monitoring service because we know the STRs are not going away. She would like the minimum age to rent to be 18 years of age unless the state law states otherwise. She asked if Staff wanted feedback on the draft language. Ms. Snider said she is hearing the committee would like to move forward regarding the contract with the monitoring company. She said she has already reached out to the IT and GIS Departments so they can gather the information needed for the monitoring company and then it will take approximately four weeks to process the information through the monitoring company.

Councilmember Bierman said Sec. 13-3202, License Application Requirements (4), page two of the draft, regarding proof of current and valid property insurance, the language needs to reflect commercial property and to make sure the homeowners understand that their personal homeowner's insurance may or may not cover a revenue generating operation such as a STR. Another example is regular auto insurance does not cover a person driving for UBER. She wants to make sure they have the proper property insurance.

Mayor Miller said regarding the numbers of STRs to an applicant, does Staff know what the range is in other cities. She asked if Staff could inquire why Oklahoma City decided to use Special Use and if there are any limitations. She said she could see a problem with apartment owners saying that all fifty of their units are now STRs and she does not want that; however, she does not know what the number would or should be. Councilmember Scott said that this says if one company owns multiple homes and is renting them as STRs or Airbnb, is that going to change anything. Ms. Snider said other cities

have had concerns about making one street a de Facto hotel district where several purchased homes can be STRs, but other cities have capped the number for any one applicant. She said language could be added where an applicant cannot have more than one on a block, but hesitates to say neighborhood because that can be quite large. Councilmember Bierman said the monitoring service could assist with determining where each owner has properties listed and how many in a particular area.

Chairman Clark said Council is very mindful of companies coming in and taking over the whole street in R-1 neighborhoods and the concerns of residents. She said she also understands some residents say they can hardly afford the payment on their home without the rental of the Airbnb inside their property, and does not want to block them. She was told a great story about someone that goes to Sooner Theatre Drama Camp and the family always rents his property for a week because they do not live in Norman, so it is not just college kids but also others from other cities using all of the resources in our community.

Chairman Clark said she thought the Committee had agreed to \$100 for the annual fee for a STR license. Ms. Snider said the fee for a Bed and Breakfast (B&B) is a total of \$100, \$50 for the permit and \$50 for the inspection. She said they also have to pay a \$400 fee for a Special Use. She said the average around the country is around \$200 to \$250 but Council can set the fee as they wish. She said that is less than the B&B. Chairman Clark asked if the application for Special Use only happens once. Ms. Snider said yes.

Councilmember Bierman said if Special Use is not going to be a requirement then it could be higher. Mayor Miller said if the fee is for individual units and someone had three Airbnb's, they would be paying \$250 for each one and it would balance closer to what the B&B has to pay. She said she thinks affordable housing is another issue here. She is worried about the neighborhood issues and buying up numerous houses.

Councilmember Bierman said Mayor Miller's concerns are contingent on people willing to sell; however, buyers cannot come in and forcibly buy up a whole neighborhood. STRs are oftentimes an affordable way for someone to come to Norman with a large group for graduation or the holidays. Visitors may not necessarily have the money to reserve four hotel rooms for the length of the stay and they could do it for a fraction of the cost by renting an Airbnb. She said they have to be mindful of both and to make sure they are also preserving neighborhoods and smaller homes; however, also present a range of rental options as well because not everyone can afford \$150 per night hotel that does not provide them the ability to cook in vs. eating out.

Chairman Clark suggested requiring Special Use for properties rented over a larger number of days and definitely a commercial property.

Public Comment

The resident at 421 Park Drive feels it should be Special Use, especially in R-1. He said the City could be more lenient in a case where there may be eight bedrooms in R-2 or other residential districts, but the R-1 residents feel strongly about the bad experiences they are having with STRs in their neighborhoods. He said there are different people there every week that have no idea what the rules are and does not want this to happen on Park Drive.

Ms. Murray said her concern is parking. She said when you have several families coming to stay and they all drive individual cars, where are they parking with a single car driveway? She would like to suggest the City follow the same language for Airbnb's as set forth for B&B in the ordinance. She said she is excited for the use of the monitoring service and willing to share information regarding inspections offered through nationally known service providers, and they are very fair and thorough.

Chairman Clark asked Staff if the draft language mirrored the B&B. Ms. Snider said no, most of the language is from the New Orleans, Louisiana, Ordinance, but they removed the language when the Committee began discussions regarding licensing only. However, the language can be added back. Ms. Murray said the same language is used with B&B and it would make it less confusing. Ms. Snider said they would have time to make changes to the language while they are waiting on the data from the monitoring service.

A resident asked how many units in the mini-dorms are allowed to be rented as an STR. She is concerned due to the fact that Code Enforcement has regular working hours of 8 a.m. to 5 p.m. and there is no point in calling in the complaint the next day because the renters are gone. She said she does not feel there is enough enforcement and the police can handle the parking across the sidewalk or loud noises, but much of it will fall onto Code Enforcement Staff. She said another interesting thing, coming from Orlando, Florida; tourist capital of the world; their ordinance requires the owner to be on the property and can only half the bedrooms in the house can be rented out.

Chairman Clark asked if contact information (name, cell phone, email) would be available to people who have concerns with activity at the STR, should Code Compliance not be available. Councilmember Bierman said she hoped that would be included in the information available.

Ms. Snider said the monitoring service has a module that does nuisance management as well that could be added on later. She said the core discovery product is \$7,500 but other modules can be added, i.e., nuisance monitoring 24/7. Their service is set up however the City may want it, e.g., contacting the police at night and code enforcement during business hours to reach out to the owner or contact responsible for the property.

Chairman Clark said she would like to add language limited the number of cars, given the lack of available parking. The owner should advise the renters of such requirements.

Ms. Stewart, resident, asked if STRs are grandfathered in, could there be language that states if they have a certain number of violations, they cannot be grandfathered in. Chairman Clark said she thought that was a good idea and if they have had numerous complaints, they would need to go through the full process.

Ms. Snider said owners cannot use the home for any commercial or social event and the ordinance could be more specific with what types of social events, e.g., weddings, bachelorette parties, graduation parties, etc. Ms. Stewart said they have had numerous groups stay next door for various events, and there were times the renters included fifteen girls and three chaperones in a four-bedroom house. She asked who citizens can contact when they are unable to reach Code Compliance. Chairman Clark said they should definitely consider the extra charges for nuisance management unless they want to have 24 hour Code Compliance.

Ms. Murray said the parties are a big issue and they choose not to allow it at the Montford Inn because it is very destructive and not fair to the neighbors; however, it is still a big concern in this town, whether high school or college age students. Chairman Clark said they have plenty of venues in Norman if they are seeking a place to hold an event.

Councilmember Holman said the Airbnb is for lodging not an event center. Chairman Clark asked staff to see if the language could be strengthened regarding use of the STR.

Chairman Clark said once again we are not done but we have made progress. This topic will be added to the agenda for April.

Item submitted for the record

1. Memorandum dated February 14, 2019, from Jeanne Snider, Assistant City Attorney and Jane Hudson, Planning and Community Development, to the Council Oversight Committee
2. Draft of Short-Term Rentals Licensing
3. Pricing Quote for Norman, OK
4. City Council Oversight Committee Minutes of November 27, 2018

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ADJOURNMENT:

The meeting adjourned at 4:52 p.m.

ATTEST:

City Clerk

Mayor