

APPROVED
SHORT TERM RESIDENTIAL USE COMMITTEE
WEDNESDAY, JANUARY 5, 2011, 3:30 P.M.
CITY HALL, 100 NORTH ANDREWS AVENUE
1ST FLOOR, FORT LAUDERDALE, FL

**CUMULATIVE
MEMBER**

		MAR 2010 / FEB 2011	
		Present	Absent
Marilyn Mammano, Chair	P	9	0
H. Collins Forman, Jr., Vice Chair	P	7	1
Genia Ellis	P	1	0
Larry Isakowitz	P	7	2
Dwight Ledbetter	P	7	2
Ronald Mastriana	P	7	2
Lula Myers	P	8	1
D.J. Parker	A	7	2
Annette Ross	P	7	2
Peter Witschen	P	1	0

At this time there are 10 appointed members to the Board, which means 6 would constitute a quorum.

Staff

Adrienne Ehle, Liaison, Planner III, Planning and Zoning Department
Deborah Rutkowski, Assistant Planner, Planning and Zoning Department
Cheryl Felder, Service Clerk, Planning and Zoning Department
Sharon Miller, Assistant City Attorney
D'Wayne Spence, Assistant City Attorney
Barbara Hartmann, Recording Secretary, Prototype, Inc.

Communications to City Commission

None.

I. Call to Order

Chair Mammano called the meeting to order at 3:30 p.m.

II. Roll Call

Roll was called and it was noted a quorum was present. Ms. Ehle introduced the Staff members present.

III. Approval of November 23, 2010 Minutes

Vice Chair Forman noted a clarification on p. 5: in Mr. Mastriana's motion, "your outline" refers to Chair Mammano's outline. He also noted that on p.6, a motion made by him should more correctly be said to have been made by Mr. Ledbetter "just to be consistent with what else has been done in the minutes," as Mr. Ledbetter was asked to synthesize the drafts.

Motion made by Ms. Myers, seconded by Vice Chair Forman, to approve the November 23, 2010 minutes as corrected. In a voice vote, the **motion** passed unanimously.

IV. New Business

a. Welcome New Committee Members

Chair Mammano welcomed new members Genia Ellis and Peter Witschen to the Committee.

b. Liaison Update

Ms. Ehle advised that today's Agenda is very full, and asked that the Committee focus on two specific aspects: the draft Interim Report outline, and the upcoming public workshop meeting in February.

c. Chair / Vice Chair Update

Chair Mammano recalled that at the last meeting, she had "felt very strongly" that the Interim Report should be produced by Staff rather than Committee members; however, since that time, she has been advised that this is the Committee's responsibility rather than Staff's. She stated that she still believed this is "the wrong direction" and that more Staff support is necessary to produce a credible, professional Interim Report to be distributed to the public. She has appealed this request to Commissioner Romney Rogers, asking that he encourage the acting City Manager and the Director of Planning and Zoning to ensure that the report be placed "at the top of the list" of that Department's priorities. Commissioner Rogers had agreed to make this suggestion as requested. She concluded that she hoped the Committee could count on additional Staff support to produce the Interim Report.

Ms. Ellis proposed that this request might be better served by asking the acting City Manager and the City Clerk. Chair Mammano agreed the request could be forwarded to the acting City Manager and the City Clerk.

Vice Chair Forman thanked Mr. Ledbetter for his work on the draft Report.

d. Staff Presentation:

I. Adrienne Ehle: "Factors" Database

Ms. Ehle recalled that she and other Staff members have worked to keep track of the various discussions, terminology and issues raised by the Committee over the past few months. She explained that the factors database is intended to remind the Committee of these issues, and to serve as a resource while the Interim Report is being written.

In the beginning, there were discussions regarding why short-term rentals are needed, who would use them, what they would look like and where they would be located, and how long tenants would remain in them. Since that time, the discussions have developed to include specific references based on the purpose, structure, boundaries, and proximity of "certain things" such as beaches and roadways. She noted that this has helped the Committee to see that many of the issues interrelate, and where this interrelation occurs. They have also talked about types of uses, location of short-term rentals, and the type and duration of short-term rentals at multiple meetings.

She concluded that the Committee should keep the database in mind, as well as discussions of the purpose behind short-term rentals, what the structures might look like, and their relationship with specific zoning districts and neighborhood associations.

Ms. Ehle referred the members to their information packet, which includes a list of the terms mentioned and the pages on which specific terms were discussed.

The following Item was taken out of order on the Agenda.

e. Working Session (continuation): Interim Report DRAFT

Chair Mammano called the members' attention to Mr. Ledbetter's synthesis of the three previous draft outlines, and asked if he would explain the color scheme used in his outline. Mr. Ledbetter explained that the comments in green were taken from Mr. Mastriana's executive summary; comments in blue come from Vice Chair Forman's input; and comments in red come from Mr. Isakowitz's additions to the outline. He pointed out that this allows the members to see at a glance that their input was included in the synthesized outline.

He said his intent was to "boil...down" the Interim Report to "facts and factors" without advocating for or against any particular position. Mr. Ledbetter noted that some items, such as ongoing litigation, may appear redundant, as they fit into multiple categories or headings.

Chair Mammano asked the Committee members to comment on the draft at this time.

Mr. Mastriana asked if the Committee intends to submit the Interim Report to the City Commission prior to the public hearing in February. Chair Mammano said the Report would be produced "for general distribution," in which the City Commission may be included. The intent was for the report to "facilitate the workshop" rather than to serve as the Committee's final recommendation.

Mr. Mastriana felt if the Interim Report was left in its current outline format, it would be more likely to generate discussion. Chair Mammano asked if there was consensus on this from the Committee.

Ms. Ellis advised that the Committee should "take the personalization out of" the final document and "leave it directed at facts," as the public will be asked to comment on these facts.

Mr. Witschen asked if Ms. Ellis' suggestion would mean removing Section VIII from the document, and noted that this section was likely to produce a good deal of public comment. Chair Mammano said the Committee may want to discuss whether or not to include this section.

Mr. Ledbetter said he was not certain whether or not Section VIII should be included, pointing out that if the public did not know some of the "solutions offered" by members, such as licensing, had already been discussed, they would raise these issues again at the public hearing.

Vice Chair Forman recalled at the previous meeting, Zoning Administrator Terry Burgess had advised the Committee that "the more information you provide the public, the more feedback you will get from the public." He recommended retitling Section VIII to let people know the Committee has considered certain solutions to the issue but is not yet "taking a stand" in favor of any specific solution.

Chair Mammano said her concern was that the suggested ideas in Section VIII were not clear, and she felt they could create confusion. In addition, she noted that some specific ideas, such as fines and penalties, were never discussed by the Committee. She felt the section "implies a greater level of assessment than we have actually done." She recommended removing Section VIII entirely.

She requested a show of hands by the Committee members who would like to see Section VIII removed. Of the nine members present, five voted to include the section. Chair Mammano proposed that they substitute "Other Ideas" as a title for this section. This was agreed upon by consensus.

Vice Chair Forman referred to a memo from City Auditor John Herbst “regarding tourist taxes.” Chair Mammano explained that this memo was a discussion of what constitutes a tourist tax, such as the duration of a rental. She asked that this memo be included in the Interim Report “in the backup.”

Mr. Ledbetter advised that the Committee should “water down” some of the language included in Section VIII, as it could be considered inflammatory. Chair Mammano suggested that, for example, the mention of a specific fine or penalty be changed to “there could be substantial penalties for violations.” The Committee agreed to this change.

Ms. Ellis noted Section VI, Item W: “Why communities that are experiencing problems with short term rental tenants cannot resolve their issues internally.” She pointed out that communities are not empowered to “enforce anything.” The Committee members agreed to remove Item W.

Mr. Mastriana asked if the Report would include copies of other cities’ ordinances, as cited in Section IX, Item F. Chair Mammano said she did not feel this would be practical, but hoped that Staff could provide a brief summary of how other cities dealt with the issue of short-term rental. Ms. Ehle recalled that a chart of other cities had been distributed at an earlier Committee meeting, and asked if this would be sufficient. Mr. Mastriana suggested that this table could be provided with a link to each city’s website below it if individuals wished to read the actual ordinances. This was agreed upon by the members.

Mr. Mastriana noted the reference to “Current Code Enforcement Actions,” and asked if this would include an attached chart. He advised against including this item, as it would mean listing open cases that can change from week to week. Vice Chair Forman noted that these cases are a matter of public record and is “part of the information the Committee has considered.” He felt the public should be given access to the same information as the Committee so they can provide informed input.

Ms. Ross suggested providing a chart or map that showed the locations where Code Enforcement violations occurred rather than “actually naming them” by name or by house number. Chair Mammano agreed that a map would be sufficient.

Mr. Witschen noted that not all such issues have been brought to Code Enforcement’s attention, and therefore could not be included on a map. Chair Mammano said the map’s legend should make it clear that only closed and pending cases are represented.

Mr. Ledbetter noted that he continued to hear that in Fort Lauderdale, “the yachting industry is a close second to the tourist industry.” He asked if there is documentation to back up this claim that could be included in the report. Chair Mammano said the Marine Industries Association of South Florida had produced a recent report including the marine industry’s impact on the City, County, and State. Ms. Ellis recommended consulting the Convention Visitors Bureau (CVB) as well. Vice Chair Forman suggested that if this information is wrong, it could be corrected. He noted that the Committee has been operating under the assumption that “tourism is number one and the yachting industry is number two.”

Chair Mammano said if the Committee is comfortable with the outline, they could hand it over to Staff to be put into its final form.

Motion made by Ms. Myers, seconded by Mr. Mastriana, to accept the outline with the corrections and to hand it over to the Staff to produce it as a document for the meeting. In a voice vote, the **motion** passed unanimously.

f. Set Agenda Details for Workshop Meeting February 24, 2011

Chair Mammano recalled that at the previous meeting, there had been discussion of an evening meeting, which might allow more members of the public to attend than the regular 3:30 meeting time. She asked Ms. Ehle for input on possible evening meeting times. Ms. Ehle said the Committee’s current meeting room is booked on the calendar from 3:30 through 7:00 p.m. on February 24.

Chair Mammano suggested a time frame of 5:00-8:00 p.m. in order to better accommodate the public. Vice Chair Forman agreed that “how late we have the venue” is the primary issue, as this would determine how long the meeting might run. He proposed that when the meeting is publicly advertised, it could encourage those who attend to “put their thoughts in writing” and submit the text of their comments to the Committee if they did not wish to speak publicly. Chair Mammano agreed they should encourage individuals to submit written testimony.

Mr. Mastriana asked where notice for meetings is published. Ms. Ehle recalled that a member of the Public Information Office had discussed notice requirements at the November 2010 meeting. Regular notices are posted “outside on the bulletin,” as well as on the City’s web page under the Committee’s link.

Chair Mammano said there should be additional notice as well, as they hoped to generate a good deal of public input. Ms. Ross suggested that Staff could compose a “short blurb” to be included in neighborhood associations’ newsletters. Ms. Ellis noted that the Public Information Office sends packets to

these neighborhoods, and sends blast emails to these associations as well as to other Boards and Committees.

Ms. Ehle said she would attempt to include notice in the February 2011 civic packets sent by the Public Information Office. In addition, notice could be posted on the City's government channel, and could be included in the recording on the City's hold line. She said she could also attempt to have the City's IT Department include notice on the City's web page.

Ms. Ellis recommended asking the Mayor and City Commissioners to announce the public meeting at the upcoming City Commission meeting. Ms. Ehle agreed this was a good idea.

Chair Mammano said she was concerned that the public should also have access to the Interim Report, and stated there should be a way to distribute the document either through a link on the City's web page or by providing copies at "various...committee meetings and forums."

Motion made by Vice Chair Forman, seconded by Ms. Ellis, that this Committee authorize Dwight Ledbetter to continue his work with the Staff, to go ahead and clean up the final document that he submitted to us, so that can be prepared as quickly as possible for distribution and dissemination among the public. In a voice vote, the **motion** passed unanimously.

Mr. Witschen asked if notice of the meeting will be emailed to other boards and committees. Ms. Ehle said this is not typically done, but notice can be sent to specific boards upon request. Mr. Witschen requested that the Planning and Zoning Board, Board of Adjustment, Economic Development Advisory Board, and Code Enforcement be informed.

Ms. Ehle noted that some "turnaround time" will be necessary to finalize and distribute the Interim Report; when it is complete, the Public Information Office can send it to neighborhood associations and to any other individuals or groups who request information regarding upcoming meetings. Chair Mammano advised the members of the public present at today's meeting to include their email addresses on the sign-in sheet if they are interested in receiving a copy of the document.

Chair Mammano asked if it would be possible to finalize the Interim Report before the Board's scheduled January 27, 2011 meeting. Ms. Ehle said she could email the Report to the Committee members prior to the January 27 meeting along with the Agenda and the draft minutes. She asked the Committee to determine whether there will be any additional items, such as a "comment sheet," to be included with the Interim Report; the Committee can then follow up on these additional items at the January 27 meeting, and they will be prepared in

time for the February 24 public meeting. Chair Mammano observed that this will allow one month in which the Interim Report will be distributed prior to the workshop meeting.

Chair Mammano asked if the Committee was in agreement to give Ms. Ehle direction to include a comment sheet with the Interim Report, on which members of the public could make written comments and send them to the Committee. Ms. Ellis pointed out that the Interim Report would be more accurately called an Interim Outline. Chair Mammano agreed that this was a suitable name for the document.

Ms. Ehle advised that she would prepare a draft comment sheet for the Committee to review at the January 27 meeting. The comment sheet would be finalized following this review.

g. Public Comment

Mr. Mastriana advised the members of the public present at today's meeting that the Committee will also take "public comment on the record" at the February 24 meeting, which will cover more detailed issues. Chair Mammano encouraged all present to attend the February 24 meeting as well, and/or to put their comments in writing for that meeting. She explained that public comment at today's meeting would be limited to three minutes.

John Faiella said he is a licensed realtor who is in favor of "this proposed ruling." He stated that homeowners are not aware that single-family homes may not be rented in the short term due to mortgage and insurance prohibitions, which leave homeowners open to liability. He said tourism is a "billion-dollar" industry, which keeps taxes low; owners of single-family homes are "trying to circumvent" the taxes, permits, and fees that are applied to the hotel industry. He felt this would "cut out jobs" and would not prevent foreclosures on these homes.

Mr. Faiella said individuals "facing foreclosure and...fighting this law are not thinking," as allowing short-term rentals could allow "possible pedophiles into single-family homes." He concluded that he did not want to be responsible, as a realtor, for selling a home that abuts a short-term rental.

Diane Schaffer stated she is in favor of allowing vacation rentals and felt it would be unfair "to take property rights away from people." She said she is in the business of short-term rentals, and restricts the number of people who are placed in these properties; renters are also subject to background checks and credit reports. Parties and noise violations are not allowed, the properties are periodically checked, and neighbors are consulted to ensure there are no issues.

Ms. Schaffer said vacation renters bring a lot of money to the City, County, and State. She cited that these rentals bring in over \$100,000 in "sales and use tax." Owners depend upon the rental incomes in the current market; she said they would be "devastated" if the City prohibited all vacation rentals. She stated that "the solution is control," and renters must be qualified as part of the rental process.

Ms. Ellis asked if Ms. Schaffer's business is located in Fort Lauderdale. Ms. Schaffer said it is. Ms. Ellis asked how the business is licensed. Ms. Schaffer said she had brought copies of her business license, broker's license, and a Collective Resort Condo License.

Karen Slater stated she represents homeowners in Fort Lauderdale "from a marketing perspective," and serves as a vehicle to allow owners to market their properties to potential renters. She said in cities that have "shut down" short-term rentals, property values have fallen from 10%-22% "almost overnight." She said residents of Fort Lauderdale have engaged in short-term rentals since the 1990s, and the City has "closed their eyes to it." As a result, investors have purchased properties in the City. She said if their property rights are compromised, these investors would leave the City and more properties would go into foreclosure.

Mr. Mastriana asked which cities provided the information that property values have fallen up to 22%. Ms. Slater said she did not have supporting paperwork on hand, but could provide it at the next meeting. Chair Mammano encouraged her to submit this information in written form at the upcoming public meeting.

James Morlock said he felt action against short-term rentals could be characterized as "government gone amok." He felt any such action would be challenged Constitutionally at the expense of the City's taxpayers. He also did not believe prohibiting short-term rentals would be enforceable without "[establishing] another layer of bureaucracy." He stated any such action would be "meddling in private property rights," as the residential areas in which short-term rentals are located are not controlled by condominium associations or cooperatives. He concluded that he had not heard any discussion of the issue of Constitutionality or what might be required to enforce regulation of short-term rentals.

Vice Chair Forman asked if Mr. Morlock was aware that the Committee was formed to make a recommendation to the City regarding short-term rentals, and explained that part of the process is engaging the public to bring them forward to be heard on this issue. Mr. Morlock noted that the stated purpose of the Committee is "to define the parameters for use of residentially zoned property in light of protecting neighborhood tranquility and peaceful enjoyment of residential property." He did not believe this addressed what he felt was "the real agenda of this Committee" or of "those who proposed this Committee."

Paul Jones said the Committee should understand that homeowners count on rental income, and recommendations such as those proposed in Mr. Mastriana's executive summary, such as only renting the property twice a year or "to cease and desist short-term rental," were "ridiculous." He noted that property values in the City have declined steeply, and the City would be hurt if short-term rentals were outlawed. He stated that vacation rentals bring "6% plus 5%, [or] 11 cents on the dollar for every dollar that comes in," and said no license is necessary as long as taxes are remitted to the proper authority.

Scott House said he was "pro-short-term rental." He stated he spent 20 years in the hotel industry and did not believe a family who would rent a vacation home would be likely to rent rooms at a hotel. He said if there were no vacation home rentals in Fort Lauderdale, these families would instead visit another destination and would bring no revenue to the City. He agreed that rules and a tax base should be established for short-term rentals, but said the City's businesses would be "devastated" if there were no such rentals available.

Jorge Brant said he is a realtor in Fort Lauderdale and is in favor of short-term rentals. He said they constitute a different market than hotels, as families can spend time together in a house rather than in a hotel room or rooms. He agreed that many families would visit different destinations if there were no vacation rentals.

Fred Carlson said he has served as president of his condominium association, and recalled they once allowed rentals, which he characterized as "a nice adjunct." He said the association's mood ultimately changed, and there was a feeling that without renters there would be "a higher class of value." Rentals were subsequently restricted. Since that time, as the value of units has declined and many are for sale, owners have asserted that if rentals are not allowed, the number of potential buyers is "dramatically" restricted.

Mr. Carlson continued that in a declining market, when "obstacles" are presented to owners who are trying to survive in difficult times, individuals will be forced into receivership. He pointed out that limiting short-term rentals to a specific district would amount to allowing "different civil rights" for different people based upon location. He concluded that limiting short-term rentals would be "a bureaucratic exercise in 'let's make rules because it will make us feel better,'" and said many people in the City would be hurt.

Lars Heldre said he is a real estate broker and owner of a rental company, which handles short-term rentals. The main focus of his company is to bring in individuals from Norway to purchase properties in Fort Lauderdale. He explained when he had created his business plan, he had come across the following figures, which are from the Florida Association of Realtors (FAR). From 2006 to

2007, 800,000 properties were sold in the state of Florida; this dropped to 300,000 properties between 2007 and 2008, and has “only gotten worse” since then. Mr. Heldre said 30% of all real estate in Florida is bought by people from other countries; of this percentage, 26% of these people are seeking a vacation home that they can rent out when not using it themselves. He said if they cannot do this, they would not buy property here. He added that vacation rentals exist “all over the world” and did not know why Fort Lauderdale would not “want to do what everybody else is doing.”

Paul Dooley said while he is a strong proponent of owners’ rights, he lives next door to a short-term rental that is rented by the weekend. He said parties often go on all night, trash cans remain on the curb all week, and there are sometimes so many cars at the rental property that an emergency vehicle would not be able to access his house.

He noted the proposal included in the outline which would restrict rentals to no less than six months, and said if this was done, it would “kill” seasonal rentals of single-family homes. He felt this should be reconsidered, as “no one comes down and rents for six months.” Mr. Dooley added that he owns rental properties and would not register them with the City; he considered this to be “government intrusion.” He felt the term “short-term rental” should be defined.

Vice Chair Forman asked what Mr. Dooley felt was an appropriate amount of time for a short-term rental. Mr. Dooley suggested two months would be appropriate, as “less than that...becomes a hotel.”

h. Set Agenda for Next Meeting

Chair Mammano asked if any members would like to include specific items on the Agenda for the January 27 meeting.

Vice Chair Forman said he had found a local case in which the Committee might be interested. He said he would submit this to Ms. Ehle for dissemination among the members.

Chair Mammano said she would submit an article regarding a law recently passed in New York City, which relates specifically to short-term rentals.

i. Other New Business

None.

V. For the Good of the Committee

None.

VI. Communication to the City Commission

None.

VII. Announcements

Vice Chair Forman asked when and where the Council of Fort Lauderdale Civic Association meets. Chair Mammano said the next meeting is scheduled for January 11, 2011, in the upstairs conference room at 7:30 p.m.

Mr. Ledbetter asked if the map with “the two overlays we saw thus far” could be brought to the January 27 meeting. Ms. Ehle said she would bring the map with updated information, which is similar to the one provided at previous meetings, which shows zoning districts and the location of Code Enforcement actions.

VIII. Adjournment

There being no further business to come before the Committee at this time, the meeting was adjourned at 5:15 p.m.

[Minutes prepared by K. McGuire, Prototype, Inc.]