

**FIVE MEMBERS OF THE  
SHORT TERM RESIDENTIAL USE COMMITTEE  
THURSDAY, SEPTEMBER 22, 2011, 3:30-5:15 P.M.  
CITY HALL, 100 NORTH ANDREWS AVENUE  
CITY COMMISSION CHAMBERS, 1<sup>ST</sup> FLOOR  
FORT LAUDERDALE, FL**

**CUMULATIVE  
MEMBER**

		<b>MAR 2011 / FEB 2012</b>	
		<b>Present</b>	<b>Absent</b>
Marilyn Mammano, Chair	P	4	1
H. Collins Forman, Jr., Vice Chair	P	5	0
Genia Ellis	A	4	1
Larry Isakowitz	P	3	2
Dwight Ledbetter	P	5	0
Ronald Mastriana	A	3	2
Lula Myers	A	3	2
D.J. Parker	P	4	1
Annette Ross	A	3	2
Peter Witschen	A	3	2

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

**Staff**

Adrienne Ehle, Staff 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  
Barbara Hartmann, Recording Secretary, Prototype, Inc.

**Communication to the City Commission**

None.

**I. Call to Order**

Chair Mammano called the meeting to order at 3:42 p.m.

**II. Roll Call**

Roll was called, and it was noted a quorum was not present.

**III. Approval of June 23, 2011 Minutes**

Minutes could not be approved in the absence of a quorum. Attorney Miller explained that members could approve by consensus if they wished; however, no official business could be conducted when a quorum was not present.

Motion made by Vice Chair Forman, seconded by Ms. Parker, to approve the minutes of the June 23, 2011 meeting. In a voice vote, the motion passed 4-1 (Chair Mammano dissenting).

#### **IV. New Business**

##### **a. Chair / Vice Chair Update**

Chair Mammano stated that she, Ms. Ellis, and Mr. Mastriana had attended the July 6, 2011 City Commission Conference Agenda meeting, where the Commission discussed the Committee's recommendations to date. The Commissioners were provided with the following:

- Five recommendations made by the Committee for establishing a regulatory framework for short-term residential uses;
- The Committee's resolution that, despite the passage of State Law 11119, the City Commission should proceed with finding a way to address short-term residential usage in Fort Lauderdale.

She reported that the City Attorney present at the Conference Agenda meeting had said the consequence of the State Law was to freeze the City's current regulatory framework in place: no new regulations dealing with short-term residential uses could be made. The City would abide by their current Ordinances, which state that these uses are not permitted and would be enforced in this manner.

Chair Mammano said the three Committee members had explained their final recommendation was to find a way to make these new regulations regarding short-term residential uses, as the existing situation did not seem to be working for local communities or industry. It was determined that the City Commission would send a legislative package to the next session of the State Legislature and seek relief from the new State Law that would allow the City to deal with the current situation.

She continued that the Mayor had stated he would like the Committee to deal with what would have been the next phase of their work, which included their recommendations on how the City could change its current regulatory framework if it had been possible to do so.

Chair Mammano stated that there were two differing positions within the Committee following the Conference Agenda meeting: Ms. Ellis felt that the

Committee had already given the City Commission their report and had no more work to do, while Mr. Mastriana had said the Committee should determine what they would have recommended in the absence of the State Law. She concluded that she would like to discuss this further with the members present today.

Attorney Miller explained that each year, all City Departments or advisory bodies interested in proposing legislative changes are asked to put together a legislative package that, if approved by the City Commission, will be sent to the City's lobbyist in Tallahassee. She advised that the Committee's report could be sufficient, or they could follow Mr. Mastriana's recommendation and propose amended or new legislation.

Vice Chair Forman asked how recommendations could be made at today's meeting in the absence of a quorum. Attorney Miller replied that those members present constituted a body of persons having a discussion, although they cannot serve as a Committee without a quorum; they could address the issue today, and then discuss it further when a quorum was present.

Chair Mammano suggested that the members present discuss where the Committee stands and where they feel it should go; these reflections would appear in the minutes of today's meeting and would be made available to those members who were not present. Formal action could then be taken at the next meeting.

Ms. Parker asked for clarification of whether zoning districts RS-4 and RS-8 allow any form of short-term rentals, such as motels or hotels. Chair Mammano said these districts did not allow uses of this nature, noting that bed & breakfast establishments were also prohibited. Ms. Parker asked if the original complaint that led to the formation of the Committee had to do with short-term rental activity in these districts, explaining that existing law could then act on such activity in these districts, which could satisfy the concerns of residents. She concluded that the Committee's recommendations on this topic have been submitted to the City Commission, and did not see that there was any remaining action the Committee could take.

Chair Mammano said she had asked the City Attorney if it would be possible to enact some of the regulatory changes proposed by the Committee, such as licensing and registration of short-term rentals. She was advised that the City cannot regulate an activity it does not permit. This meant the City would need to determine a way to permit these uses in RS-4 and RS-8 districts, such as specifying certain circumstances in which they are allowed, before the uses could be licensed and regulated.

Ms. Parker asked if it was true that an activity not included on the City's books is considered to be against the law. Chair Mammano said if a use is not specifically

permitted, it becomes a prohibited use. Attorney Miller confirmed this. Vice Chair Forman noted that another provision in the Code states if a use is not prohibited, it is considered a permitted use. Attorney Miller said she was not aware of such a provision.

Mr. Ledbetter said he felt the only action the Committee could take would be to refine the motions it has already passed and include them in a succinct document to the City Commission. He felt the legal process could take years to resolve, and attempting to take further action as a Committee would not be productive.

Mr. Isakowitz asked what would come of any recommendations they might make. He agreed with Mr. Ledbetter that the issue could take a long time to resolve, and pointed out that in the meantime people would be uncertain about how their properties could be used, and tourism, the marine industry, and the housing market could suffer. He concluded that the Committee was not given any real direction on how to proceed.

Chair Mammano returned to the issue of not being able to regulate what is not permitted. She commented that one of the City Commissioners had suggested creating a registry of affected properties; however, she had pointed out that if this was not a permitted use, this would mean the property owner was leaving him- or herself open to action from Code Enforcement.

She continued that the Committee had worked for several months and taken a great deal of testimony, and had arrived at the conclusion that the current situation was untenable and change must happen; however, they were prevented by the State Law from enacting any changes. She proposed that the Committee make a powerful final statement in their final report, asserting that the existing situation is not working, the marine industry is being affected, and residents remain unsatisfied. They would then include the Committee's recommendations for change.

Vice Chair Forman said his question was how the City could decide that a short-term lease is not a residential use. He noted that the State Law prohibits any regulation based purely upon the fact that a property is a vacation rental; if all residential uses are regulated the same way, then short-term uses of any kind would not be singled out in this manner. He advised that a registration system could help deal with specific issues, such as parking, noise, public intoxication, and other violations; these problems would be addressed in the same manner as all other residential properties.

He continued that he was not aware of anything in the City Code that regulates rentals of any type or duration. He also did not believe short-term renters had a monopoly on abusive behavior, and advised that problematic behaviors could be

dealt with under existing Code. He noted that one unresolved issue was the fact that some neighborhood residents felt no type of short-term use should be allowed, and felt this was the sentiment the State Legislature was trying to address in the State Law. Vice Chair Forman asserted that industry, such as the vacation rental or marine industries, may have approached their representatives and stated that cities were preventing them, through regulations, from conducting business.

He stated that they could recommend to the City that Code Enforcement be available on weekends, or violations should be addressed more effectively. He concluded that the State Legislature appeared to be very clear in stating short-term rentals could not be regulated solely on the basis that they are short-term rentals, but must be regulated in a way that is content- or duration-neutral. His recommendation was that the City focus on abuses, as these behaviors are what constitutes a problem.

Chair Mammano pointed out that this was what the Committee had tried to do by suggesting a regulatory structure including licensing and registration. She felt this may mean the Committee has reached an end point, and suggested that in the absence of a quorum, they adjourn and take up the issue at the next scheduled meeting.

Mr. Ledbetter said he felt the Committee has been very productive during its existence: they had identified uses of which the Commissioners were not aware and had recommended a set of solutions. He felt they should prepare a final report, as he believed the State would ultimately realize there were unintended consequences to their action. He felt the Committee's proposals would help show the State that the existing law needs further refinement, and some regulation is necessary.

Chair Mammano asked if the members would object to her compilation of a final document based upon the Committee's recommendations, which would state that they were awaiting further direction on how or whether they can proceed. She would provide Ms. Ehle with a copy of the document for distribution to the Committee, and they could discuss it at the next meeting.

There being no further business to come before the Committee at this time, the meeting was adjourned at 4:20 p.m.