

Meeting Minutes

Moderator's Committee on Short Term Rentals

1/6/2020

Convened at 7:04PM

All six members in attendance.

The Chair opened the meeting and notified the public that this is a public meeting and is being recorded.

Paula introduced the Moderator's STR committee, showing some slides with the names of members and the committee's charge. It will be difficult to please everyone. Thank you to the Planning Department for facilitating.

The committee members introduced themselves with some brief words.

Paula shared the Committee's charge and noted that the committee needs to develop a warrant article before the close of the warrant on March 4th.

Paula discussed the function of the committee and the process that the committee needs to undertake.

Paula stressed the need for civility.

Paula discussed how the public will learn about the meetings and how information will be shared.

Paula discussed some additional steps in the Town Meeting process that would occur after the Committee's warrant article is filed.

The committee reviewed minutes and voted to approve them "as amended". The vote was unanimous.

Paul walked the committee through the warrant articles and motions that were moved at the fall 2020 Town Meeting. The articles were organized in three articles.

Article 9 was a new zoning bylaw. Article 10 was the bulk of the regulations. Article 11 was enforcement.

Paul will flag issues as requested by the committee members.

Many of the issues on the "unit eligibility" slide were flagged.

Some issues on the Registration Procedure / Certification Issuance slide were flagged.

Some issue on the Operational Requirements slide were flagged

Paul suggested we should discuss in more detail the items that were flagged. He expressed surprise that there were such a large number of issues flagged.

Maureen was given the floor to provide some observations.

Maureen thanked Paul for the overview. Maureen has an overarching thought. She is a host, but the articles won't impact what she is doing, as she hosts 30 days or more. She believes there are people who host both short and long term in the same space as they respond to the market or season (therefore, hosting for a week and then two months). She believes these articles leave out time so-called long term hosts (they don't actually have a name) preventing them from having to comply with the proposed STR regulations. She doesn't think the market is so segmented. Maureen finds it problematic someone can rent for two months and not meet these proposed regulations. It's important to point out that we are leaving out many rentals. She also suggests that a host operating both short term and long term out of the same space, has to comply with different sets of rules (#of guests, # of days allowed per year) and that will make town enforcement more challenging.

Maureen believes her other thoughts will be raised later in the discussion (as Paul's overview and the group flagging covered many of her points and will be discussed) .

Paul believes Maureen is raising a short-term rental vs. a long-term rental. By right you have the ability to rent up to a certain number of rooms and a certain number of individuals for more than 30 days. Paul believes that you do not have to pay tax on that. If it's 31 days or less. It is defined by Massachusetts General Law that it is a short-term rental.

Maureen finds it odd someone can rent for two months and not meet these regulations. She also stated there is virtually no language about cars and parking and the obligations of the host. Cars are an issue in town and she wonders if she could discuss it.

Chris shared a slide he created.

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Paul does not think that a resolution instructing the Building Commissioner to enforce or not enforce our bylaws is a good idea. Short-Term Rentals in Brookline, today, are not an allowed use and are illegal. Paul states that It is not up to the Building Commissioner to decide which by-laws to enforce. In fact, Town Meeting this past November, funded an additional building inspector position for the specific purpose of supporting and enforcing our by-laws related to Short-Term Rentals.

Paul stated that he does not agree with recommending “permissive” regulations with the expectation that Town Meeting will make more restrictive amendments. Paul believes that the committee should do the work and propose regulations that it believes are in the best interest of the town.

Paul also stated that an important goal is to protect long-term housing. He stated that there are a number of long-term housing units that have been taken off of the market by investors and that we must not allow this. Paul stated that a number of Town Meeting Members are proposing to upzone the town to allow for the creation of more housing. At the same time, we are allowing our long-term housing to be converted to short-term rentals. Paul said that this makes no sense.

Sean thinks a resolution is a good idea to give some clarity to the Building Commissioner. It gives us a way to tell the Building Commissioner the will of Town Meeting. It shouldn't just be assumed by the Building Commissioner. Sean thinks the number one problem we need to invest in is the issue of investor-owned units in Brookline. The present situation is not the biggest problem. He comes out in-between on the cascade amendment question. If we can't agree, we need to take into account the way the scope of the article works. We wouldn't be doing our job if we put something on the warrant that precluded amendments. The other area of concern is that it gets complicated. You don't always move from more permissive to less permissive.

Ana shared a PowerPoint slide reflecting how property prices increase in Lisbon as the number of short-term rentals increased.. Ana believes the number one problem is what can happen in Brookline if we are too permissive. Ana sees a connection between the number of STRs and housing prices, thereby further decreasing affordability in the Town..

Maureen says she finds Chris's chart helpful for understanding the “cascading amendment questions” he is proposing. . She agrees the approach could be effective, help unpack the various issues and demonstrate the will of TMM. But she doesn't agree with all of the questions he has included. She doesn't like the idea of investment units. She agrees with preserving long term housing units. She does think more than 90 days may be reasonable but wonders how we settled on 90 days and that fewer than 90 days may also be agreed upon by TM. She thinks it would be beneficial if the individual issues - could be voted on (# of days rather than a no or yes on article).

Paul clarified that the 90-day limit came from the Planning Department.

Paula mentioned how she had spoken with town officials. She also talked about Santa Monica which has banned STRs. Paula said that communities around Brookline are restricting short-term rentals. Paula suggested we invite Town officials to discuss these issues.

Chris asked that we let Town officials speak for themselves.

Paula mentioned that it was important to think about enforcement.

Chris shared some comments about how to get to 2/3rds majority.

Paul wondered whether we can continue to whittle down the issue.

Paula liked the idea of trying to further whittle down the issues.

Paul shared his screen again with the list of items shared previously in the meeting. Paul walked through a series of “goals” or “principles”. This list was created by the subcommittee of the advisory committee. Paul reminded us that votes at the AC were very much divided.

Paula clarified that she thought that the petitioner last spring did not include S and SC districts.

Sean asked if there was concern that economic development would be harmed by the idea of STRs competing too closely with hotels.

Paul continued to share thoughts about the different items, including investor-owned.

The committee discussed the concept of owner-occupied units and rentals. There was significant discussion about what was fair and about what would pass Town Meeting and what created loopholes for investors to circumvent the intention of the regulations.

There was significant discussion about whether STRs could be allowed for subsidized units.

Polly was asked whether there was a provision in state law about subsidized units/buildings.

Ana believes it is extremely fair that we would ban rentals for subsidized units/buildings.

The Chair asked if people could meet beyond 9PM.

There was significant conversation about condo associations and what should or should not be permitted.

There was significant discussion about smaller condo associations and how those agreements would work. Impacts that STRs can have on smaller condo associations.

There was discussion about the issue of requiring initial inspection at time of initial application and renewal of application. Paul described why this was included. Maureen mentioned that, at past STR meetings, the bldg and fire dept, had stated inspections would be very difficult to perform. She asked if the committee should be taking this (enforcement of regulations) into consideration. Paul mentioned that a new building inspector was included in the budget. Significant discussion continued on the balance between costs, revenue, practicality of enforcement. Sean suggested a modification could include language about requiring that the

host certify that the unit can be made available as inspected. Chris suggested that the issuance of the permit might be when the inspection occurs but not upon renewal.

Ana wanted to make sure we still flag the language change about condo associations. This will be an area of significant discussion for the committee.

Paula thought it would be a good time to pause, but first we would spend a few minutes before we adjourn to talk about schedule. If we need everything submitted by February 24th, then we have a lot of work to do. Paula suggested we target the first week of February to try to circulate our initial draft for comment. February 3rd would be the date. Perhaps we could go to the February 10th meeting.

There was discussion about multiple meetings per week in order to meet our objective of completing our work within the established timeframe.

Paul didn't realize the level of concern on different issues, and he pointed out that it's been helpful to hear the conversation.

There was significant discussion about how many meetings were held.

Paul expressed frustration that it felt that we were backtracking in the context of our charge. Paul reiterated that the committee's charge is to modify the articles as presented at Town Meeting taking into consideration the issues raised at Town Meeting. Paul then enumerated those issues which included confusion raised about the application of the STR regulations on month-to-month rentals, the need to have a host be present during the rental period and the 90 day limit on the total number of rental days in a year.

Chris explained why he was raising so many issues.

Maureen suggested there were other issues that had not yet been heard (at TM

Paula suggested we focus on a limited number of issues to stay within the Moderator's charge to the Committee and not exceed it.

We are going to have the public hearing next week.

Paul asked how we were going to manage the public meeting. Paul asked if we should present something.

Sean suggested we post something online.

Paul proposed that we use the warrant articles as proposed to get public feedback.

Paula suggested we circulate the content slides that Paul shared, and ask Paul to present that information at the beginning of the meeting.

Paul will post his summary on the website.

Paula asked if we should invite key Senior Town staff come?

Maureen asked if sending a list of questions rather than have a staff member appear in-person might be more time efficient.

Paula suggested Town Counsel, the Planning Department, and the Building Commissioner and asked whether those were the right officials to invite.

Paul thinks we need time to hash through the regulations that were flagged. Paul thinks we need to get to the core issues.

Sean said he saw value in including Town officials in the beginning and including them in the end.

Chris reiterated Sean's points.

Paula said she thought it was important to have our work completed by February 24th. The Chair asked for a motion to adjourn.

The next meet will be on Wednesday, January 13, 2021 and will include public comment. It will be held in a webinar format.