

MINUTES
Town of Crested Butte
Special Town Council Meeting
Monday, September 26, 2016
Council Chambers, Crested Butte Town Hall

Mayor Michel called the meeting to order at 6:02PM.

Council Members Present: Jim Schmidt, Erika Vohman, Roland Mason, Laura Mitchell, and Paul Merck

Staff Present: Town Manager Dara MacDonald, Town Attorney John Belkin, Public Works Director Rodney Due, Town Planner Michael Yerman, and Building and Zoning Director Bob Gillie

Town Clerk Lynelle Stanford (for part of the meeting)

APPROVAL OF THE AGENDA

Merck moved and Vohman seconded a motion to approve the agenda. A roll call vote was taken with all voting, "Yes," except for Mason who was not yet present. **Motion passed unanimously.**

A. Presentation by Alex Fenlon on Recommendations of the Short-Term Rental Committee and Possible Action by the Council.

Gillie began by explaining that many entities were grappling with the issue of short-term rentals (STRs). They created a short-term rental committee in May, and Gillie listed the committee members. The committee came up with recommendations for the Council at the end of July. Members of the committee were at the meeting to present and review the committee's recommendations.

Alex Fenlon, chairperson of the committee, presented. He described the make up of the committee. He explained that they went all over the map and hit a lot of subjects. First, he reviewed the findings. Next, he listed the recommendations. The only recommendation that limited the number of STRs was based on groupings: Category 1, historic residential and mixed use zones; Category 2, non-historic residential zones; and Category 3, commercial zones, deed restricted zones, and public/open space zones. The committee recommended that existing STRs were grandfathered. Zones that were already over the proposed caps would be reduced by attrition through property transfers, violations, and inspections. Fenlon said that definitions should be enacted to define the types and impacts of STRs. He reviewed the proposed license fees. He stated that a large part of the committee's discussion was around affordable housing. Another recommendation was that all STRs needed a local contact.

Fenlon continued and stated that all STRs should be assigned a distinct number to be displayed on a placard placed on each STR and in all advertisements for the property. He explained what inspections would entail. A legal requirement was that a provision for appeal of revocation of a license should be enacted.

Fenlon reviewed pros and cons of STRs. Michel explained that the committee's recommendation was not to ban STRs in the Town of Crested Butte, and the Council was not contemplating banning them either. Fenlon stated that the biggest pro was that there was a lot of money being generated. The real estate market felt an uptick since owners could use the houses as rentals. Another pro was an increase in the bed base. Cons that were listed by Fenlon included: short term rentals damaged the long-term rental market; regional effects; neighborhood impacts; damage to the Crested Butte brand; and no next generation of residents. The thesis statement they used in guiding the committee was whether there was a point where STRs were harmful to Crested Butte, and the committee voted 5-2 there was a point that they were.

Michel asked for comments from committee members that were present. Dan Escalante wished the committee did a better job of putting together a visual of what other towns and cities were doing. Steve Ryan thought it was a lot bigger issue than anyone thought. He had concerns with low percentages on capping because he thought the free market system would dictate. Schmidt stated that Town had a lot of limitations to include zoning. No ski town had a great solution, and he listed restrictions he heard were tried in other towns. He thought the rules, such as who to call and safety requirements, should be a slam-dunk. Schmidt suggested discussion items would be getting down to the percentages, and he thought that homes rented out 60 days or less per year should not be restricted. Mitchell felt the fees were arbitrary. The caps treaded on private property issues, and she thought they should get public input. Since people located in the B1 Zone were already paying three times the property taxes (as residential), she wondered where they fell. She liked where they went with safety issues. Kat Hasebroek added that the long-term housing issue was a large part of what was discussed. She said they tried to figure out how to tie STRs to long-term housing.

Gillie told the Council that Town needed a licensing regime beyond the BOLT that hit on the points recommended by the committee. He stated they would need to fund a position to deal with issues. MacDonald clarified that the Council needed to decide which of the fourteen recommendations from the committee they wanted to pursue for the draft ordinance.

Michel began with recommendation #3, a STR license should be created above and beyond the BOLT license and should be renewable annually. Schmidt thought it was reasonable, and he didn't think the amounts were unreasonable. Fenlon listed the fees, and he defined short-term rental unlimited, short term rental limited, and short-term room rental. Escalante explained that fees would cover the cost of a new employee and staff time. Vohman and Mitchell thought the fees were reasonable. Merck thought it was hard to enforce, and he didn't know what they were defining. Mason thought that a separate fee made sense. He wanted to see the short-term rental limited fee come down, or he

wanted to increase the unlimited. Gillie explained that a lot of the process was the same for both, such as inspections. Mason didn't want to hit people with such large fees when they were trying to pay their mortgages. Belkin stated that fees were to defray costs, and a fee was not a penalty. Michel supported the licensing fee. Vohman supported increasing the fee for unlimited. Mitchell thought the fees could be based on the number of bedrooms. Michel reiterated that fees had to be related to the costs to the Town.

Michel moved on to recommendation #4, which was the fine. Merck agreed with the enforcement of the rules. Belkin stated the fine served as a deterrent more than anything. No one on the Council voiced opposition to the proposed fines.

Next, the Council discussed recommendation #6, collecting information to identify the nexus between STRs and affordable housing. Everyone on the Council agreed they wanted data collected.

Recommendation #7 addressed that all STRs needed to have a local contact. All of the Council members agreed.

Recommendation #8 was about the advertising. Each STR was to be assigned a unique number. Michel thought the placard to be displayed on each property would be similar to a building permit. He confirmed the Council agreed to the recommendation, and no one voiced opposition.

The Council agreed with recommendation #9 that the Town's website should have information on STRs to include rules, maps, location, and contact information.

Recommendation #10 was that the maximum occupancy of any STR was ten people. Gillie told the Council the reasons he was comfortable with ten. No one on the Council voiced opposition to the ten person maximum. Mason thought it seemed reasonable, but he wanted to hear from people who were affected.

Recommendation #11 was that all STRs must have all the off street parking that was approved with the property, and the parking must be usable all year around. Michel summarized the parking requirement. Gillie said that homeowners needed to provide the parking that was committed. Mason thought it made sense, but day-to-day enforcement was nearly impossible. Merck agreed. Gillie explained it was a tool for complaint driven issues. Schmidt acknowledged that some homes didn't have parking spaces assigned. Mason thought they needed to make exceptions for people who didn't have parking, so he was fine the way it was presented. Michel summarized that the Council agreed with the recommendation.

The Council agreed with #12 that information be provided to all STR renters. They agreed with #13, the requirement of bi-yearly inspections to check compliance. The Council also agreed with #14, the provision for appeal. Michel asked to whom they would appeal, and Belkin stated it would be the Town Manager.

The Council discussed recommendation #2 that definitions be enacted. Per Michel's request, Fenlon defined short-term rental unlimited, short-term rental limited, and short-term room rental. Michel confirmed that a rental period of 31 days was legally defined as a long-term rental. Mitchell clarified that the short-term rental limited allowed up to 60 days but not consecutively. Michel asked where the Council was on the mixes. Mitchell was okay. Mason wanted to see the definition of limited be extended to allow renting out for more than two months a year. Mason thought 90 days was reasonable. Fenlon thought the committee could have easily landed on 90 days. Schmidt suggested they set 60 days, and they could make it less restrictive. Michel thought the 90 day period was a lot. Merck countered that he thought the term of 90 days was okay. Michel polled the Council, and there were four Council members that agreed to the 90 days. Schmidt and Michel thought it should be 60 days. Escalante suggested that if the limit was too long, it would make it attractive to choose limited. Hassebroek stated that most homes didn't rent that many nights per year. MacDonald pointed out that a homeowner couldn't pull the limited license unless it was a primary residence. Michel told the Council that the decision now was they were doing 90 days for a short-term rental limited. Vohman dropped back to 60 days, so the vote became 3-3. Mason wanted to give locals a better opportunity to do as they wanted with their property. Michel stated they were at 3-3, going back and forth in discussion.

Lastly, the Council discussed recommendation #1, to limit STRs based on percentages placed on zones. The Council briefly discussed the fact that Town was already above the stated goal of 25% in the historic residential and mixed-use zones. Gillie stated the \$10 per pillow was a cheap placeholder for people who wanted to retain their ability to short-term rent, so he expected some would drop off. Merck recognized there was no hard data, and it was hard to tell how it would affect people. He thought appeals needed to happen on a case-by-case basis. Hard lines had not worked well in other communities. Schmidt struggled with the limitation the most. He doubted that someone would long-term rent a house after purchasing it for \$1.2M. He wanted to open up the category (short-term rental limited) for primary residents. He thought it would take a long time to bring the cap to 25%. Mitchell did not like that there was a cap and then attrition was expected bring down the number. She could get on board with the limitations as long as there was not significant push back from the real estate community. Vohman liked the percentages that were proposed, and she thought they could get there with attrition and sales. She also thought it was important to have parking restrictions. Mason agreed with Schmidt on not putting a limit on properties that were primary residences. If they pulled out the number of people who had primary residences, then he would be okay with pulling the days back (on short term rental limited). By pulling the primary residences out, then the number would drop to around 25 to 30%. He supported keeping a cap, which was helpful for keeping the community what it was. MacDonald said they needed more time for Staff to look at the limitations on a transfer of that use and the license. Michel asked Mason to summarize. Mason said that under definitions, they should put a limit on unlimited short-term rentals between 25 and 30%, then pull out of the percentage of short-term rental limited anyone who was renting out their primary residence, and anyone could apply at any time. He was fine taking it back to 60 days, and he was fine with the room rental. Yerman stated that Airbnb would not go towards the cap, and

Mason agreed. Gillie said they had a hybrid with locals who owned two houses. He predicted they would have new percentages to discuss after another rush.

Michel opened the discussion to Public Comment:

Keith Payne

- All homes in this town were investment properties.
- If they had restrictions that didn't pass to the next owner, it would scuttle with the market for re-sales.

Jaima Giles

- Homeowners were not purchasing homes for strict commercial purposes.
- People were not making money on their properties.
- There would be a value placed on properties that were available to rent, and it would have a negative impact on the real estate market.

DeeDee McLeod - 305 3rd Street

- Short-term rentals abided by more rules because they were their homes.
- She was here as much as she could be, but she lost less money by renting out her property.
- She would not long-term rent her property.
- Said to impose the same rules to long-term rentals.

Erich Ferchau - 311 5th Street

- Suggested that they enforced the same rules for local residents, including looking at parking issues with residents.
- There were hybrids out there.

Jim Starr

- Stated that they were heading in the right direction.
- He agreed there shouldn't be a cap on primary residences that short-term rented.
- It would become more affordable if the price of real estate was driven down.
- They didn't need a nexus for a tax issue that went to a vote.
- The fees should go to affordable housing.

Eric Davis - 311 1st Street

- The last thing his house was, was his investment.
- 60 days was a little too narrow of a cap.
- Safety inspections should be conducted whether a rental was short-term or long-term rented.

Molly Starcher

- She long-term rented and worked in Town.
- Hard to find high quality workers since the long-term rental market was limited.

- Other towns found ways for short-term housing to give back to the long-term pool.
- Mentioned a situation with Escalante where his unit was pushed out of Town because it was an eye sore.

Peter Sherman - 711 Whiterock

- Wondered why the fee covered the cost the cost of an employee, instead of sales tax.
- Transferability (of licenses) would cause the value of homes to go down, and it might not be legally possible. It would be wrong to take away.

When questioned by MacDonald, the Council agreed to start the work session next Monday at 5PM.

EXECUTIVE SESSION

Schmidt moved and Vohman seconded a motion to go into Executive Session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e) Regarding Cypress Equities Pre-Annexation Agreement. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

The Council went into Executive Session at 8:07PM. Council returned to open meeting at 8:49PM. Mayor Michel made the required announcement before returning to open meeting.

ADJOURNMENT

Mayor Michel adjourned the meeting at 8:50PM.



 Glenn Michel, Mayor



 Lynelle Stanford, Town Clerk (SEAL)

