

A work session of the Astoria Common Council was held at the above place at the hour of 9:00 am.

Councilors Present: Nemlowill, Price, Brownson, Jones (via telephone), and Mayor LaMear.

Councilors Excused: None

Staff Present: City Manager Estes, City Planner Ferber, Finance Director Brooks, and City Attorney Henningsgaard. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

#### **DISCUSSION ON HOME STAY LODGING**

Wednesday, December 13, 2017, at 9:00 am City Council will hold a work session to continue a discussion on regulating Home Stay Lodging. At a work session in May 2017, Council directed the Community Development Department to create an updated permitting process to better regulate and enforce home stay lodging uses.

This upcoming work session allows for a conversation to review what a new permit will accomplish, and discuss policy solutions to move forward to establish a policy that fits the needs of our community. Staff will be prepared to discuss and receive feedback on potential permit options, suggest provisions, as well as share an update on code enforcement.

Attached to the memorandum are the following documents:

- Existing homestay lodging code enforcement data including zoning, business license, and transient lodging tax data. This information is captured on a tracking sheet showing required steps for code compliance
- FAQ flyer clarifying "vacation rentals" versus transient lodging, and current requirements for establishing home stay lodging

Home Stay Lodging is currently regulated by the City's Development Code and City Code.

City Manager Estes noted that printed copies of the Active Enforcement and In Compliance spreadsheets, Pages 5-8 of the memorandum, were available. Staff confirmed the information in the spreadsheets was current as of December 12<sup>th</sup>.

Planner Ferber, City Manager Estes, and Director Brooks gave a PowerPoint presentation, reviewing the Frequently Asked Questions handout on Pages 3 and 4 of the memorandum, Council's last home stay lodging discussion in May, updating Council on Staff's efforts since May, and recommended options for a citywide permitting process applicable to residential and commercial zones. Staff noted how a permit would benefit the City, especially by providing additional revenue. In 2015, Airbnb confirmed they would have collected and paid about \$20,000 in transient room taxes. However, the City only received \$1,400 from home stay lodgings. Council could give Staff the authority to revoke a permit for non-payment of taxes, but this would likely involve an appeal process.

Councilor Nemlowill recommended the permitting process allow for public comments and require a review by the Police Department of properties to which they have made a lot calls, perhaps as part of the renewal schedule.

Councilor Price recommended annual inspections, higher licensing fees charged annually, limits on the number of guests allowed per unit, and revocable permits with short time frames for revoking a permit in perpetuity or requiring a four or five year wait time before the Applicant could re-apply. She was adamantly opposed to Airbnb because the company is bad for the city. The only support for Airbnb comes from people making money off the service. Councilor Brownson added that those who stay in Airbnb properties also support the service.

Staff described how their proposed permitting process would reduce the proliferation of illegal vacation rentals. Staff will have a better understanding of who is permitted and who is not. Penalties for non-compliance will

incentivize property owners and some of the issues would be addressed by requiring copies of a property owner's income tax statement, driver's license, and voter registration card. However, there will always be some who operate their business illegally. The City could require property owners to provide proof of the number of nights their rooms were rented. If no proof is provided, the City could make its own estimation and charge taxes, penalties, and interest accordingly, or apply a flat penalty fee.

Council and Staff discussed placing caps on the number of home stay lodgings allowed in the city. Caps are usually placed on vacation rentals and they are extremely difficult and time consuming to enforce. The City would have to develop a permitting process that was equitable, like a lottery system. Councilor Brownson suggested the process be simplified by creating a waiting list, permanently revoking the permits of non-compliant home stays, and requiring the permit to become invalid upon sale of the property. Staff confirmed they were not even sure caps were legal in zones that allow home stays. Councilor Jones said he did not support caps; he believed Staff should focus on illegal whole home vacation rentals and non-payment of taxes.

Staff explained it would be difficult to try to collect back taxes from home stay lodgings. The City has created a lot of public awareness over the last year and a half, which has resulted in increased compliance. Airbnb's estimated taxes due for 2015 were based on sales made through their website, but they will not tell the City who made those sales. Therefore, the City could only go back against those who are now in compliance.

Staff asked for feedback on placing a cap on the number of home stays in the city. Council was divided on whether caps would be appropriate and whether caps should be considered at this time.

- Councilors Nemlowill and Price agreed that a flat cap should be put in place now because short term rentals were hurting other businesses, business growth was being stunted by the lack of housing, home stays could provide additional housing, and the influx of vacation rentals and home stays would make future changes difficult. Councilor Price added that a cap should also be placed on the number of nights units could be rented per year to prevent people from buying second homes, apartments, and buildings to rent out year-round.
- Councilors Brownson, Jones, and Mayor LaMear indicated they preferred to consider caps at some point in the future, perhaps after the permitting process had been in place for a year. They did not agree that home stays limited the availability of workforce housing, could provide workforce housing, or harmed local businesses. Many home owners chose to operate home stays because they are unwilling to rent their unit full time. And, visitors who stay in home stays spend their money at local businesses.

Staff confirmed they would begin drafting Code language that would implement their recommendations, as well as language implementing caps for further discussion by Council.

Councilor Brownson preferred a better definition of home stay lodging units. Staff's recommended definition does not mention entries, bathrooms, or kitchen facilities. The units should look more like a hotel room than an apartment. He recalled a previous conversation about implementing a temporary moratorium on new home stay lodgings until the City completes this process. City Manager Estes reminded that the City would need to prove health and life safety issues in order to put a moratorium on new home stays.

Councilors continued to debate about whether home stay lodgings had any impact on workforce housing. Councilors Nemlowill and Price agreed that rooms should be rented to Astorians, and homeowners should be encouraged to do so. The tourism economy is already thriving, but the housing situation is dire. Councilors Brownson, Jones, and Mayor LaMear did not believe that renting home stay units to tourists had any significant impact on workforce housing, that the housing issues should be resolved through other means, and that home owners should be allowed to choose whether they rent to residents or tourists. After some discussion, the entire Council agreed that the community should be better educated about the housing situation in an attempt to encourage homeowners to rent to residents, and that homeowners should be allowed to choose whom to rent to. Councilor Nemlowill did not want a significant number of short term rentals in Astoria because it would impact the availability of units that the workforce could rent as well as rental prices.

Councilor Brownson wanted to learn more about software programs for tracking home stays. Planner Ferber explained that there is a fee per listing and the programs would take care of code enforcement.

Councilor Brownson shared details about the State's tax collection laws, which require third party facilitators like Airbnb to submit the taxes they collect. Airbnb argues that they do not collect any taxes, that the taxes are

passed through to the property owner and it is up to the owner to pay their own taxes. However, the law is clear and the State believed Airbnb would be forced to comply. This means Airbnb would be collecting and paying taxes even on the noncompliant home stays. The State is also updating computer software to collect more detailed information about the taxes they collect. Once this is complete, the State will offer to collect taxes for local jurisdictions for a fee.

Director Brooks confirmed that Astoria was receiving funds from all third party facilitators except Airbnb, but they were paying under protest. However, the City needs information from the lodgings about their bookings to verify what the funds were for. The City does not require this information and only receives it from hotels and motels. Additionally, it is very time consuming to cross check the lodgings' information with the third party facilitators' information.

Council and Staff discussed the local jurisdictions' dependency on the State to work with third party facilitators because State laws would take precedence. The League of Oregon Cities has been representing the local jurisdictions as they work with the State to resolve the tax collection issues. Councilor Nemlowill wanted Astoria's policy in place before new tax collection methods are implemented. Clear records of who is and is not paying taxes would be a big part of the permitting process and the ability to revoke a permit.

Mayor LaMear confirmed that Council wanted Staff to move forward with their proposal and make some recommendations for implementing caps on the number of home stays allowed in the city and number of nights each unit could be rented in a year. Councilor Brownson also wanted Staff to work on a better definition of a home stay that differentiated it from a living unit. City Manager Estes said even if caps were implemented, whole apartments in commercial zones could still be rented out without owner occupancy. Council and Staff talked about how caps would impact residential and commercial zones differently. Council was particularly concerned about apartments. Separate Code changes could address those concerns and incentivize downtown apartment owners to rent to residents. However, Councilor Price preferred limiting the number of nights in commercial districts. Councilor Nemlowill did not support caps on the number of nights because it could be interpreted as a threat on established home stays.

Mayor LaMear called for public comments.

Sarah Lu Heath, no address given, Astoria, stated she was speaking as a resident, not as a representative of the Astoria Downtown Historic District Association (ADHDA). There is a big difference between single family dwellings being rented out and a short term rental in someone's home. She believed Council and Staff needed to have more discussion about that difference. She also believed the City was not concerned about the people who need the income because there had been discussion about it. Astoria has limited housing stock combined with lower than state average income and Council should be considering way to increase incomes so that people who live in Astoria can afford to buy instead of rent. Three different families rent a room in her basement, which could not be turned into a long term rental unit. This allows her to supplement her income to meet the cost of living in Astoria while still retaining personal use of the space when it is not being rented. She did not want to lose this.

Councilor Brownson said Astorians' need for supplemental income from home stays was discussed at prior meetings.

Ms. Heath explained that if the permitting process were too expensive, property owners would have a difficult time earning enough supplemental income because home stays are only rented out occasionally. This could mean no visitors, no supplemental income, and no workforce housing.

Councilor Price did not believe Staff's recommendations would prevent any of that.

Unidentified Speaker said most of the people she has talked to do not take issue with situations like Ms. Heath's, where one extra room is occasionally being rented. She is a realtor and last week showed nine houses in Manzanita that were being used solely as vacation rentals. Meanwhile, the Blackbird restaurant closed because they could not find employees. The only other coffee shop in town is only open from 7:00 am to 10:00 am for the same reason. People who work in the restaurant industry cannot afford to live in Manzanita.

Councilor Nemlowill felt good about Staff's proposal and understood that the Council wanted penalties to be very stiff. She also wanted Council to consider a provision that only year-round residents be allowed to rent out units commercially for short term rentals.


Councilor Brownson asked for details about conditional use permits. City Manager Estes explained that home stays were allowed outright in the R-2 and R-3 zones, but only with a conditional use permit in R-1 zones. Full house vacation rentals are not allowed in any residential zone. Those zoning laws would remain in place in addition to the proposed home stay permit.

Councilor Price asked when Staff would be able to recommend Code language. City Manager Estes briefly shared details about Staff's current workload and said Staff could have a recommendation ready by late winter or early spring.

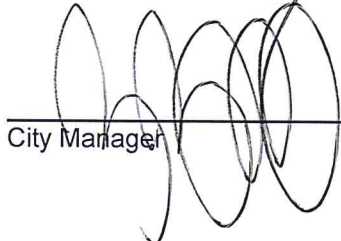
#### **ADJOURNMENT**

There being no further business, the work session was adjourned at 10:45 am.

#### **ATTEST:**

  
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Finance Director

#### **APPROVED:**

  
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City Manager