



Resort Advisory Commission  
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RESORT ADVISORY COMMISSION  
 MINUTES

**DATE:** April 5, 2018  
**TIME:** 3:00 pm  
**PLACE:** Virginia Beach Convention Center, Room 4AB

**COMMISSION MEMBERS PRESENT**

Kristina Chastain  
 BJ Baumann  
 Bobby Melatti  
 Craig Roback  
 Gerrie West  
 John Hawa  
 Michael Cloud-Butler  
 Nancy Creech  
 Russell Lyons  
 Sam Reid  
 Sylvia Strickland  
 Tyler Brown

Ron Villanueva

**OTHERS PRESENT**

Barry Frankenfield, Planning  
 Kevin Kemp, Zoning  
 Kevin Chatellier, DBMS  
 Alex M. Gottschalk, DBMS  
 Christina Trapani, Ecomanic  
 Brad Van Dommelen, CVB  
 Chief Cervera, VBLE  
 Deputy Chief Dean, VBLE  
 Deputy Chief Zucaro, VBLE  
 Capt. Mike Ronan, VBLE  
 Offr. Matt McInerney, VBLE  
 Kevin Hershberger, Zoning  
 Stacey Parker, The Pilot  
 Emily Archer, SGA  
 Kristine Gay, SGA  
 Kathy Warren, SGA  
 Bernice Pope, PDRC  
 Mike Eason, CVB/Resort Mgmt.  
 Robin Hart, CVB/Recorder

**COMMISSION MEMBERS ABSENT**

Billy Almond  
 Bryan Cuffee  
 Keith Ireland  
 Laura Habr  
 Preston Midgett  
 Randy Thompson  
 Phil Boyer

Kristina Chastain called the meeting to order at 3:00pm. **Motion carried to approve the minutes from the March 1, 2018 meeting as written.**

**Short-Term Rental Update** – Barry Frankenfield & Kevin Kemp

Barry Frankenfield introduces Zoning Administrator Kevin Kemp, who will be handling regulations concerning these issues.

Although they have been around for a long time, short-term rentals are not permitted in their current zoning code; they did not appear to be something that needed to be addressed. The electronic community and the Airbnb development have contributed to their popularity.

Several committees came up with recommendations on how to handle the explosion and, in 2017, the state legislature adopted the registration requirement. Homes that were represented by a brick-and-mortar realty companies were exempt. It allowed localities to

regulate the use through local plan use ordinances, which set the stage for regulation implementation into the city's zoning ordinance.

Barry Frankenfield reminded the Commission that Virginia is one of the Dillon rule states, which allows the state the right to intervene in the city's regulation of these houses, which may result in a loss of \$3-4M to the state in revenue. Three draft ordinances referred by City Council to the Planning Commission resulted in the addition of two more, plus another ordinance by Vice Mayor Louis Jones, with the latest draft posted on the City's [webpage](#) under the April 3, 2018 Overview.

The differences between home sharing (owner onsite) and short-term rental (for 30 consecutive days) were presented, with both requiring accountability.

On March 20, 2018, Council deferred consideration of the ordinance for 60 days. The governor is required to act by April 9, 2018.

Meanwhile, Vice Mayor Jones proposed to allow short-term rentals in three districts: Sandbridge (SSD), the Oceanfront (OR) and the North End (R-5R). Registration, fees, taxes and adherence to special conditions are required.

Eleven conditions would apply to every short-term rental in the city. Some cases may require that the zoning administrator make a decision whether to approve the plan for additional parking.

The current recommended proposal states that if a community gets 60% of its residents to agree, they can allow short-term rentals by creating their own overlay district, which would allow them to have short-term rentals by right, granted by the City. Total registered short-term rentals in the city currently number 1,830, with a concentration at the beaches.

Barry pointed out that the unknowns involve how many unregistered short-term rentals are actually in operation. If this ordinance is approved and they apply for CUPs, the expectation is that the conditions will be heavily enforced.

Barry added that there is a statewide review of what building codes are applicable to a short-term rental. As of yesterday, they are asking the housing officials with the state for formal word for single-family rentals. They suspect there may be significant changes in regulations regarding building and zoning codes and other regulations related to short-term rentals. Other cities in Virginia are currently dealing with similar issues.

The budget vote is scheduled for May 15, 2018 and it is understood that Council will reconsider the short-term rental issue after that. A workshop, likely to be open to the public, is to be scheduled before that consideration. No specific date has been set, but the issue is deemed to be of an immediate nature.

## QUESTIONS/COMMENTS

Discussion included a homeowner rights and responsibilities for events, district selection, registration and enforcement processes, single family versus multiple family rentals, and how short-term rentals might change the nature of residential neighborhoods.

John Hawa asked the conditions the homeowner has to adhere to if they have a special event permit, and Mike Eason explained the requirements concerning outdoor entertainment and the number of people allowed to gather at a residence.

Nancy Creech asked if the conditions change if a renter is charging admission to an alcohol event at their rental, or having a fundraiser.

Mike said that if alcohol were involved, they would bring in a strong enforcement from the ABC. Typically, anyone that obtains permit is going to follow the rules; it is the parties on social media that they cannot control unless they are spotted on social media and law enforcement gets involved and notifies him.

Nancy asked if it applies to a homeowner who has a party with over 100 people and serves alcohol, and Mike replied that if the laws are taken too far, the City might infringe upon a

homeowner's right to have a party. He asks at what point it becomes a nuisance to the neighborhood rather than a homeowner exercising his right to entertain people in their home as often as they want.

Sam Reid asked if the CUP conditions apply citywide, and Barry Frankenfield verified that they do: a CUP is required for anything outside of the allowed districts. Areas such as Croatan and Shadowlawn are not in Vice Mayor Jones' revision. If the latest ordinance passes, those areas will require CUPs for their short-term rentals.

Russell Lyons asked why the North End was selected as one of the regions versus Croatan or Chix Beach. Kevin Kemp replied that they selected the neighborhoods where the short-term rentals were already established and prevalent, and also in an attempt to limit the number of CUPs that would have to be reviewed by Council from non-designated districts.

Kristina Chastain pointed out that using short-term rentals is the way of the future and many families are starting to travel in this manner, instead of trying to secure adjoining rooms in hotels.

Sam volunteered, as President of the Council of Civic Organizations (CCO), that he has addressed Council twice on the short-term rental issue at the request of the neighborhoods. With Sandbridge as the exception, the CCO would like to see the CUP requirements adopted for the other neighborhoods, as the City needs the enforceability.

Kristina believed that the likelihood of owners/managers allowing renters do whatever they want is low, and Sam recalled his experience with a rental in his neighborhood that involved a gathering of over 100 people, with incident.

Kristina acknowledged the challenges of renting to what could become a large party versus a family of five.

Kristina asked how one enters the short-term rental market, and Barry replied that the owner would go to one place to get the registration and requirements. They are unsure as to whether an inspector will have to come out to verify that the rental meets any requirements.

Kevin explained that the form they would develop for the short-term rentals would be similar to the existing form that the city offers that allows someone to run a business out of their home. The owner residing in the overlay district (and permitted by right), signs that they will meet the 11 conditions, zoning approves it, and the agreement becomes enforceable.

Current enforcement of short-term rentals consists of calling 311 where they have records of ownership and can contact the responsible party to act immediately on the complaint. Dave Hansen has extended the 311 access telephone number to 24/7 access. For the City, the Commissioner of Revenue's office would verify registration and work with law enforcement.

BJ Baumann asked what is done about habitual violations and Barry replied that there is a three-strike rule for violations of any kind (to be defined), and the Commissioner of Revenue's office may revoke their registration.

Russell Lyons asked what regulations govern the difference between a hotel and a professional short-term rental business, and Kevin Kemp replied that the building code is being reviewing for that right now. The blurred line is when a single family occupies the rental versus multiple families.

Barry will send updated links to the Commission on the latest review developments.

Gerrie West pointed out that the fear of many civic leagues is that certain things that the City does to control one thing may open the door for other things that might not be desirable. Developers of these party houses could buy contiguous properties and rent them out through loopholes in existing regulations. She has had no problem with the short-term rental behind her, but she is worried about opening the door. Some localities are turning short-term rentals into

businesses, and are not residents of the neighborhood, which changes the nature of a residential neighborhood.

She asks how they keep that from happening, given that there is no code in existence to keep the number of bedrooms down.

### **2018 Week 17 Update** – Chief Cervera

Chief Cervera briefed the Commission that they plan operational design, both externally and internally, all year long, not just in preparation for a particular weekend. The last weekend in April, known as College Beach Weekend (CBW), has become a phenomenon over the last six years, but they have been planning operational design for decades.

Law enforcement researches what they can on social media; they cannot go into private social media as is portrayed on television and gather information. They reach out to hotels and restaurants, college campuses, and civic leagues, including the Department of Justice Civil Rights Division. They realize that during CBW, young adults come to have a good time, and other young adults come to do harm.

They work with the CVB and Economic Development, Special Events and Public Works. Generally, if an area is well-kept, people usually tend to act differently.

In addition to outreach, they try to anticipate attendance, ensure proper training, and apply what they learn from the previous year's After-Action Reports, which are reviewed during May through July from the prior year.

Chief Cervera points out that the issues are not all police enforcement; sometimes the environment contributes to the issues at the oceanfront. He is grateful to see the areas that have shown improvement.

Because the resort area is not the only area affected by CBW, an area command is set up to deal with parties all over the City, and forces can be mobilized as needed.

### **TIP Fund Presentation** – Kevin Chatellier & Alex M. Gottschalk

Kevin Chatellier and Alex Gottschalk are from the City's Budget and Management Services Department, and Kevin is the analyst assigned to the TIP Fund.

Kevin provided background on the different funds set up by the City.

The Tourism Growth Investment Fund (TGIF), established by Council around 1992, had a series of dedications for the purpose of investing in tourism growth initiatives in the resort area and in the city. The Major Projects Fund, established around 2002, was established to receive a series of tax dedications to finance large projects (the VBCC, Sander Center, etc.). The Tourism Investment Program (TIP) Fund, established in 2011, was a merger of the TGIF and Major Projects funds. The TIP receives percentages from the hotel, restaurant/meal, amusement and cigarette taxes.

Focusing on the Budgeted FY18 column, the budget for the current year (as of July 1 of this fiscal year), Kevin reviewed what the numbers represent before moving on to the FY19 spreadsheet.

Revenues are expected to exceed expenditures by that amount at the end of the fiscal year 2018. Subtracting the expenditures (\$32.6M) from the revenue (\$39.5M) shows the balance at the end of the year (\$6.8M). The cumulative fund balance shows what is projected in total. The 2017 balance has about \$13M, so adding the projected \$6.8M to that shows the \$20.4M at the end of the year.

Focusing on the column Updated Projection FY19, Kevin points out that the revenues appear to be growing.

The Beach Operations expense will increase due to some capital improvement costs that they need to incur this year. Although HRT is expanding their route up Shore Drive over the

Lesner Bridge, the TIP Transit expenditure has remained relatively the same, due to an increase in fare box revenues. The increase resulted in less of need for a local subsidy to support those routes.

The arena projects were removed from the CIP for 2019 and as a result, it has freed up about \$12M a year in the TIP fund.

The noticeable change is in the first two Debt Service lines in the projected model from this year to next year. The purpose of the forecast is to be as conservative in looking at the overall health of the fund in the future, so the second line item represents when amount of debt service that will occur when those bonds are fully issued, and the debt is due to be paid.

Kevin Chatellier reviewed the debt service for the Dome Site and music venue, and streetscape. The Sports Center project expenditure was updated to reflect the indoor track addition. The Central Beach and Convention Parking is a \$55M investment to expand structured parking within different areas along the oceanfront.

Another new project for the 2019 CIP is the Public Pier Project, which is sourced by cash, or "fund balance". The Aquarium's Seal Exhibit is also new to the 2019 CIP, and funds are allocated for that to get the design project started for repair of the damaged exhibit.

The Arena Out of the Box line refers to a cash swap for the PFRBs, where they are getting rid of the bonds that were authorized for the arena and replacing them with cash.

The expenditure impact to the TIP Fund for 2019 is now approx. \$35.6M, and the projected revenue of \$41.8M leaves a projected fund balance of approx. \$8.3M.

The budget office watches is the Fund Balance as a percentage of Next Year's Annual Revenues, as the General Fund Balance policy for the City has a desired balance of 8-12 percent of the following year's revenues, which helps the City maintain its AAA bond rating. The budget office tries to keep their number above 10 percent. The 2019 balance is at 66 percent, and the TIP Fund is projected to keep a healthy fund balance out into 2027.

Kevin reiterates that they do try to stay conservative in their projections. The bonds sold are still based on 4.5% interest rates, which have not been that high in several years which indicates that the fund has even more capacity than is indicated in these spreadsheets. If the market does change, they have accounted for it.

Upon completion of these new projects, the additional revenues generated from hotels, restaurants, etc. are not figured into these projections, so there is still more room in the projections for additional capacity.

## QUESTIONS

Sam Reid asked if the developers are considering vertical parking and Kevin replied that it is conceptual in design.

Mike Eason replied that it is structured. The parking spaces at the Dome site will need to be replaced, and the Sports Center parking is structured. There may be other joint efforts with private entities buying public parking, but he is not sure of details.

Sam asked if the cash swap in the debt service affected the city's bond ratio. Kevin replied that these are bonds that have been authorized but never issued, so they are not backing out of any financial commitment.

Mike asked if the \$21.5M is strictly for the pier, not additional restaurants, retail, etc. that might be included and Kevin replied that they are only in development at this point. The FY20 indicates not project completion, simply when the means of funding would hit the CIP.

Mike verified that the TIP fund was established to support tourism-related products. He asked Kevin if Council could use this money for other uses throughout the city, and if so, how they would do it.

Kevin Chatellier said that City Council has the authority through ordinance and as a body, to reallocate, rededicate and change taxes and funds in the City. It would be at their will.

Kristina Chastain verified that it would require a six-person vote via ordinance.

Russell Lyons asked about the drop in Existing Debt from FY24-FY25, and Craig Roback asked a similar question about why it decreased approx. \$1M this year.

On Craig's question, Kevin replied that in the FY18 budget, there was an assumed bond sale that never occurred and they were anticipating having more debt service paid in the current year and it did not happen. On Russell's question, the decrease in the debt service is a result of the convention center being fully paid.

John Hawa asked if the Dome site music venue was independent of the Dome site developer, or if the projects had to happen together. It was believed that the music venue is contained within the whole Dome site proposal.

Kristina Chastain asked if the music venue revenues will go to the city and Kevin believed that it would be determined by the developer agreement, maybe similar to how there was a 1% hotel tax associated with the arena agreement. Whatever happens with the agreement, his office will see if the TIP fund can support a decision like that.

When asked if the convention center hotel idea had passed, Kevin replied that it had not; however, they are waiting to see what these projects do and then make decisions on how to proceed.

Mike Eason reminded the Commission that the last big tourism investment was the VBCC, which was approx. 12 years ago.

Kevin verified that revenue projections for the projects are based on historical growth trends of the city over the years.

## COMMENTS

The Commissioners were happy to see the detailed financials and congratulated Kevin and Alex on giving a thorough, yet understandable overview of a complex projection and analysis process.

BJ Baumann added that she liked the fact that the spreadsheet was fluid enough to be able to account for other costs that may arise due to the projects or maintenance issues in the resort. She would like to see updated spreadsheets like this than they have in the past.

BJ reports that the Commission has supported the sports center project in that they are comfortable with the due diligence, and would like to see it move forward. They also conceptually supported the Dome Site project, with the understanding that it has a lot of moving parts. It has always been the goal of the RAC and the resort industry to see an entertainment venue go into the Dome site project.

Their continued support will be based on receiving additional information on these projects. They have been told that information is on the way concerning the impacts to existing businesses, and whether the revenues are realistic. Her understanding is that an economic study with displacement consideration is being done.

They have not taken a position on the Pier site, but they have requested the same level of information that they requested for the Dome site.

She reemphasizes to the budget office and to Council that they do want to see any type of bold, innovative projects move ahead at the oceanfront, but with the appropriate analyses

and discussions for each one. None of their actions should be considered as trying to impede these developments; the RAC is offering constructive input.

Billy Almond believes that the Commission needs to think about the activities of the Atlantic Avenue Association with regard to the restoration and refurbishing of Atlantic Avenue. That work is now 30 years old, and needs to be done again. Before they send money anywhere else in the city, he wants the Commission to keep that idea in the forefront.

Kevin Chatellier leaves the Commission with budget fact cards for distribution, which have information related to the budget, taxes and tax changes, the CIP departmental operating budget, revenues, the FTE counts and highlights of city school projects. They welcome input on the operating budget at the city council meetings.

### **Committee Reports**

Kristina reminds the Commission that they deferred last month's reports due to time, so they will cover two months' worth of subcommittee reporting where applicable.

### **Transportation, Parking, Pedestrian Committee (TPPC)**

Mike Eason reported for TPPC Chair Preston Midgett for the meetings held on February 22 and March 29.

At the February 22, 2018 meeting:

- The Atlantic Avenue parking pilot project moved forward.
- Rob Fries provided the annual parking report.
- HRT is moving forward with a mobile app for the trolleys. The Route 35 is being extended from Lynnhaven Inlet to Pleasure House Road, which was funded without any addition to the budget. If trolleys were to be used for that route, it would reduce the use of trolleys at the oceanfront. The old hybrid buses will be used on the Route 35 to prevent that.
- Brad Capps reported for the RBCL, saying that they recommended that the RPPP yellow hangtags not be offered to any short-term rental business. You can receive up to 10 parking passes a week for guests and the request has to do with increasing parking on the street.

At the March 29, 2018 meeting:

- HRT went under contract with a company that is going to develop the mobile app.
- Ashby Moss and the SGA office gave an update on proposed changes regarding drive-throughs in the resort area, as well as an update on commercial parking lots and the history on both in the area.

Billy Almond will elaborate in the PDRC report. They are trying to understand how changing customer demands in the retail world might be affecting business operations.

Kristina comments how the drive-thru has turned into a pickup window, citing the Aloha Snacks business.

### **Planning & Design Review Committee (PDRC)**

Billy Almond reported for the February 27 meeting.

- They approved a design for the Mayflower, located on Atlantic Avenue next to North End Pizza. They approved a design to remake a small area into an amenity for the residents.
- They discussed a development for 29<sup>th</sup> & Pacific, a drive-thru, and Ashby Moss gave

a specific presentation of the history of drive-throughs, current regulations and proposed changes that might be developed for them. Billy recapped the presentation, adding how people are now using apps to call in for product and picking up without entering the business. That discussion resulted in inviting two people from CBRE to their next PDRC to give them a presentation on what the modern tenant (retail, commercial, office) is are looking for when they come to them scouting property, such as location, transit services, etc. The PDRC is hoping to educate themselves on how this particular land use might be changing, in addition to other uses. Although the Planning Commission denied the 29<sup>th</sup> Street application, it is still going to Council.

At the May 1 meeting:

- The Ramada was recently, and they reviewed proposed changes to the Mahi-Mah's café. They gave them some ideas for change in the interim improvements, and they will come back to PDRC in May or June for more permanent changes.
- They discussed commercial parking lots at 23<sup>rd</sup> and 14<sup>th</sup> Streets. They are trying to differentiate between the requirements for allowing the development of some of the lots. They are researching them to understand what is and is not permitted.

### **Oceanfront Enhancement Committee (OEC)**

Sam Reid defers to OEC member Bobby Melatti to report for OEC.

Bobby tells the committee that they discussed Holiday Lights at the Beach and Live! On Atlantic. The Holiday lights included a review of what they did last year for the Lights and what is scheduled for 2018, which will include a price increase from \$5 in 2017 to \$10 in 2018.

For Live! On Atlantic, which is replacing Beach Street USA, reflects a citywide effort for rebranding, which has a lot to do with what is happening with the Atlantic Avenue Association and the desire for refreshing that street. Banners will run from 6<sup>th</sup> to 34<sup>th</sup> Streets and will include seven music venues in addition to 7<sup>th</sup>, 31<sup>st</sup> and 34<sup>th</sup> Streets. The park at 17<sup>th</sup> Street will change from a circus atmosphere to a music venue seven days a week. The magic show will remain at 24<sup>th</sup> Street. Other tweaks will include a Fun Zone from 19<sup>th</sup> to 24<sup>th</sup> Street, but that idea is still under construction.

### **Resort Investment Committee (RIC)**

Kristina Chastain reports that the RIC had the same TIP fund presentation as was shown today at their last meeting, and decided to bring it to the RAC today.

- They reviewed the speakers list for upcoming RAC meetings.
- She requested receiving a monthly briefing from the Atlantic Avenue Association on their initiative. They will check with the Chair.

### **Oceanfront Strategic Growth Area Committee (OSGAC)**

BJ Baumann reported that they had representatives from the SGA and City Attorney's office to provide them with information on funding sources for different parts of the city, from both the city and legal standpoints. It stemmed from the Atlantic Avenue Association's questions to her on what assistance was available that could help them make improvements.

John Hawa added that they also had a discussion on advertising dollars and were reviewing the policies behind their distribution. He is hoping that the RAC might be able to stand behind their recommendations when brought forth.

**G.R.E.E.N. Report**

In lieu of the G.R.E.E.N reports, Christina Trapani spoke as a consultant and small business owner in Virginia Beach. She works with other businesses, such as the Virginia Aquarium and Clean Virginia Waterways. She updated the Commission on the Keep It Beachy Clean (KIBC) projects and talked about the grant for the Cigarette Butt Littler Prevention Program, involving the resort management office, G.R.E.E.N. committee, and local hotels and restaurants.

She met with the CVB and the G.R.E.E.N. committee, who was also working on a clean beaches program, in hopes of creating a unified message about keeping the beach clean. The positive reinforcement message in the blue “Thanks! For Not Littering” stickers were applied to the resort trash cans and distributed to the hotels.

They expanded the KIBC program to recycling and reusing efforts, checking your area before you leave for trash, cleaning up after your pets and not feeding the birds – all actions that can negatively affect water quality.

Her latest project is to go “Straw-Free” at restaurants on Earth Day, as straws are most one of the common items found in beaches and waterways litter.

A presentation to VIMS in 2017 gained attention and more funding to expand the program to the Bayfront and Sandbridge. The future of Keep It Beachy Clean involves obtaining more funding to further expand the program and get more exposure and consistency. They want to grow their volunteer team and create more partnerships.

**QUESTIONS/COMMENTS**

Kristina Chastain expressed interest in the program and Christina will contact her.

BJ Baumann used the kids’ placemats last year in her restaurant and requested that they also create something simpler that will hold a toddler’s attention. BJ requested costs estimates and what type of funding they would need.

**Staff Report** – Mike Eason

Mike Eason reports that She Crab Soup event is this weekend at 24<sup>th</sup> Street, and invites everyone to come out. They are preparing for inclement weather.

**Old Business**

None

**New Business**

None

**Public Comment**

None

Meeting adjourned at 5:25p.m.