

Nantucket Short Term Rental Working Group

Meeting Summary

December 5, 2022 | 2 PM – 8:00 PM ET, Hybrid Meeting

Meeting Objectives

- Explore and evaluate approaches to regulating Short Term Rentals
- Discuss Next Steps

Welcome & Internal Group Work

Stacie Smith, Consensus Building Institute, welcomed the members of the STRWG who attended the meeting in person, as well as those joining virtually. She went over the agenda, ground rules, and announced that the Select Board approved a special town meeting for the fall of 2023 to consider any by-laws that the STRWG might develop. This means that the group would have until summer to complete their work, allowing ample time to collect the needed data, develop thoughtful responses, and collect public feedback. She announced that WG members would have an opportunity to approve all pending meeting summaries at the next WG meeting. She then reviewed the plan for the STRWG Public Input Session scheduled for December 12th, 2022.

Stacie began the meeting with a thumb wrestling exercise that encouraged members to reconsider what "winning" looks like in this process. She then asked members to go around and speak about what experiences they have had with STRs, and how people have been affected by them personally. Members shared their experiences with renting through STRs as their introductions to Nantucket, renting their own homes on Nantucket, and their positive and negative experiences as STR users, operators, and neighbors.

To see the full list of WG members and alternates in attendance, please see Appendix A.

Develop Initial STR Proposals

The WG members then broke into small groups to discuss initial ideas for proposals to address STRs. She emphasized that this was a brainstorming exercise to identify possible areas of agreement and disagreement. Noting that the group does not have the data about STRs to inform their thinking, she encouraged members to think about possible policy levers that apply to their understanding of the problem to date. These proposals would not be official recommendations, simply initial starting points for discussion.

After the small group discussions, the group reconvened and each small group shared out the following key points of agreement and discussion - please note, some points were agreed to by all in the group, while others were the ideas of just one or two members):

Group 1

- Registration, permits, and health regulations need to be enforced (and perhaps further codified in a zoning or general bylaw)
- Temporary moratorium on new STR permits (amount of time TBD)
- Cap on the total number of STR permits (number TBD) with a phased-out approach
- Prioritize the goal of protecting neighborhoods, with an understanding that different neighborhoods want different things (maybe less restrictions further out of town)
- Ensure that if WG policies pass, they are codified
- Adopt the 3% Community Impact Fee, using the revenue to support local housing

Group 2

- Strictly limit or eliminate commercial use - properties used exclusively as STRs
- Adopt the 3% Community Impact Fee, with at least 25% going to affordable housing or infrastructure
- Ensure regulations passed in Article 39 are enforceable (create tools or outline resources needed)

Group 3

- Group members agreed on banning business entities (defined as “non-natural persons” like the Palm Springs ordinance) from renting STRs
- Adopt a by-law at May Town Meeting to legalize existing STRs that sunsets at the end of 2023, at which time this group’s new by-laws, to be adopted at a Fall Town Meeting, could be implemented instead.
- Grandfather existing STRs through general bylaw
- Develop STR caps by neighborhood (some members disagreed)
- Stipulate that STR permits do not transfer with property (some members disagreed)
- Cap STR rentals at 6 weeks per summer per unit (with the cap ending after season ends)
- Require proof of home being lived in X number of days (some members felt this was not enforceable)
- Protect STRs at local cottages and other unique situations

The WG took a break.

Review Small Group Proposals

After the break, Stacie attempted to consolidate the themes where there appeared to be emerging agreement, as follows:

- Limit/eliminate “Business” (non-natural persons) operation of STRs
- Adopt the 3% Community Impact Fee (applies to those with 2 or more STRs not including their homes)
- Develop a Cap on the total number of STR permits on the Island

- Limit the number of rental contracts or weeks per unit in season
- Allow only one STR rental (of whatever length) per week in high season
- Protect locals rights to operate STR (all agreed on their primary property, some agreed beyond that)
- Protect unique STRs in customary settings (e.g., cottage businesses) and places where year-round housing was inappropriate

She led the group in discussion about these emerging areas of consensus and concern.

Limit "Business" STR's

A significant area of concern about which most members agreed was the competitive pressure from commercial entities with deep pockets, who could drive up prices and potentially take over more and more properties over the years. Most members agreed that they wanted to limit business STRs on the island that treated residential homes solely as for-profit STRs. They discussed different ways of defining "business" that might accomplish this goal without penalizing families that put their homes into LLCs or trusts for insurance or taxation reasons. Many participants supported the concept of identifying "natural persons," which Palm Springs inspectors told a member was working well for them.

3% Community Impact Fee

Most participants supported the idea of adopting the optional Community Impact Fee of 3%, which is allowed under Massachusetts G.L. c. 64G, § 3D(a) and applies to "each transfer of occupancy of a "professionally managed unit," which is defined as one of two or more short-term rental units in same city/town not located within a ...dwelling that includes the operator's (owner's) primary residence." According to the law, "A city or town shall dedicate not less than 35% of the community impact fees collected under this section to affordable housing or local infrastructure."

STR Caps and Limits

Several groups discussed the idea of regulating STR's through caps that set a maximum number of STRs allowed. This could be a total cap for the island, and/or could include caps by neighborhood, type or size of unit, or other categories. Participants had different ideas about how to set these caps and at what level - for example, whether to set the cap to allow all existing STRs and then lower it through attrition(e.g., you can have your rental if you have a permit as of X date). Some raised concerns that this would create a rush of people registering STR's before the deadline, and one member urged the group to research how caps have worked in other communities.

Members also suggested implementing limits on the number of weeks or days someone can rent in a season, and all seemed to support limiting STR to one rental per week. One member questioned how these caps would be enforced.

Protecting Locals and Unique Situations

All members agreed that, once the group could clarify what it was trying to prevent, there should be an explicit protection in by-laws of all the STRs that they wished to allow. There was agreement that this included the rights of locals to STR rent on their own primary properties, and the unique settings for STRs, such as seasonal cottages and other local businesses where year-round residence was inappropriate. Many members felt that protections for STR should go beyond that limited scope and should include seasonal residents and other “natural persons.”

Stacie highlighted that these approaches helped set a starting point for deliberation, and that once the data on STR numbers and use is compiled, the group can revisit these with more specificity and detail.

The WG broke for dinner.

Data Questions Review

After the dinner break, Stacie turned to Jeffery Goodman, Granicus, to give the group an update on data collection. Jeffery, who joined the group virtually, began by acknowledging and apologizing for the limitations and lack of clarity in his previous data presentation to the group, and his commitment to answering the group’s questions to the extent possible. He suggested that the group delineate the highest priority questions that need to be answered. Stacie referred the group to the list of key questions that had been identified at the last meeting to address the group’s interests:

Key Data Questions:

- How many STRs, of what size (# bdrms and occupancy)
- Where are they, how are distributed across neighborhoods
- Intensity of use for each - # days is each rented, # of leases, length of stay
- Sales relationship to STR use over time
- Who owns and operates them - year-round residents, seasonal residents, business entities
- Delineated by season
- Growth over time

She then opened the discussion to members to further discuss data questions that they saw as both potentially available and clearly tied to decisions within the group’s mandate.

Several members asked questions about the feasibility of tracking the impacts of STRs on changes to the housing market over time. Jeffery agreed that long term data on STRs is difficult to find because such data is not available from the on-line platforms. One member asked if data was also being pulled from Nantucket real estate brokers and the people who run those

websites. Jeffrey said they were pulling data from some websites, and in conversation with NAREB about their data.

One member questioned Jeffrey's doubts about possible fraud in the claiming of residential exceptions, and stated that the Assessor had asserted little concern about fraud in the program. Jeffrey explained that he included that based on common perceptions that there are tax questions around residential exception programs, but that he is not asserting fraud. He noted that assessor data can be difficult to parse because there is a variety of the pattern of use (3-month, 6-month, 9-months in non-consecutive ways). One member noted that in a recent discussion with the Select Board, they noted that they think there are more people who are not taking advantage of the program than there are abusing it.

One member suggested that Jeffrey tease out the difference between LLC, Trust, and business/corporate ownership, because the group is interested in regulating these differently and needs good information about each category. Jeffrey agreed that these were all different groups, and sales data could be a strategy to help separate these groups naturally. Another member stated determining who is behind a trusts can be purposefully difficult to figure out.

Participants asked about the process and possibility of collecting usage data. Jeffrey explained that they have a baseline of data points from public sites (and they will integrate Nantucket listing sites), which seems to be about half of Nantucket's market, and then they can make assumptions on trends. A member noted that the Nantucket Association of Real Estate Brokers (NAREB) also has all this data going back to 2019, and that they are willing to work with the group to share their data. Jeffrey agreed that would be best, and noted that the process of integrating Granicus and NAREB data would take time.

Although Jeffrey cautioned that designating neighborhood boundaries could be subjective, one member felt it was helpful to develop data geographically for people to understand the impacts in different places.

Stacie then suggested that Jeffrey look at the list of emerging policy proposals and consider data needs that might help inform the group of the impacts and value of these. For example, she noted significant interest in the 3% community impact fee, so it would be helpful to know how many STR and operators would be affected by this (e.g., those that meet the State's definition of professionally managed units). Members were also interested in potential caps and their impacts on neighborhoods, and the possibilities around defining and limiting business entities.

Work Plan and Timeline

Finally, Stacie went over the tentative plan for the working group. She reminded the WG about the upcoming public meeting on December 12th, and invited them to join if possible to help facilitate the small group discussions. She proposed to hold the next WG meeting on January

17th to reflect on the public input from that meeting. February will be dedicated to continuing to gather appropriate data, and so the next meeting date after January 17 would depend on the timeline for that data collection. Assuming this moves forward as proposed, the group would still have several months once it receives the data it needs to deliberate and develop by-laws for a fall Special Town Meeting, which would require completion no earlier than the end of June, and possibly even a bit later. Stacie emphasized that now that this group has more time, it can focus on gathering the data and bringing this group accurate and relevant information. One member suggested that someone release a statement to the public on why the Select Board approved a special town meeting.

Public Comments

- Caroline Baltzer: In the beginning of the meeting, the lawsuits were brought up and someone suggested a sunset clause that would protect people while this WG is working on recommendations. I think we should address that again because community members are feeling worried that they could have a lawsuit targeted against them. The public is depending on this group to protect them
- Robin Nydes: Jeffrey is doing work to get the data questions we have, but we continue to come back to data. We cannot let having all the data ruin getting things done. We are asking Jeffrey to get a lot of data, and NAREB will help, but we are overlooking a huge resource which is the town. Through the registry, we can ask them to compile information from the last two years and match it to the data we are getting in this process.
- Mike Herlihy: You spoke of not allowing STR permits to be passed down with the property. Many of us with properties on Nantucket have passed them through their family for generations, and when we are gone, we want the family to be able to keep them, but many will require permission to rent them as STRs to do so. Death should not be a criterion to take away STR permits from families.

Next Steps

Stacie Smith went over the next steps and action items:

- CBI will create a meeting summary
- CBI will send instructions for the Public Input session to WG members and alternates.

Stacie thanked everyone for their participation and closed the meeting.

Appendix A: Subgroup Members and Attendance

Working Group Members

John Kitchener, At Large

Karen Zagayko, At Large

Dave Iverson, Planning Board Member

Peter Schaeffer, Finance Committee Member

Julie Lindner, ACK Now

Thomas Dixon, Affordable Housing Advocate

Jim Sulzer, At Large

Kathy Baird, Nantucket Together (Online)

Peter Kahn, Advisory Committee of Non-Voting Taxpayers

Meri Lepore, Board of Health Designee (Non-voting) (Online)

Working Group Alternates:

Meri Lepore, Board of Health Designee (Non-voting) (Online)

Robin Nydes, Nantucket Together (Online)

Working Group Staff

Stacie Smith, Consensus Building Institute

Simenesh Semine, Consensus Building Institute

Megan Trudel, Planning Department Liaison

Adrian Rodriguez, Administrative Team

Granicus Staff

Jeffery Goodman, Granicus