

Nantucket Short Term Rental Working Group

Meeting Summary

June 13, 2023 | 5:00 PM – 8:00 PM ET

Meeting Objectives

- Review Input from Public Session
- Discuss and Refine Draft Bylaws

Meeting Materials

- Synthesis from June 1 Public Meeting

To find meeting materials, please visit the project website [here](#).

Welcome & Internal Group Work

Stacie Smith, Consensus Building Institute (CBI), welcomed members of the Short-Term Rental Working Group (STRWG) and the public to the sixteenth Working Group (WG) meeting. All members voted on and approved the June 1 Meeting Summary.

There was a brief discussion on what information should be forwarded to WG members by others. The group decided early on in the process that they would not send data analysis that was done by members of the group to others, and CBI and Town staff will not forward similar messages.

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

Reflections and Discussions and Public Input Session

Stacie opened the discussion to WG members to give their thoughts on the public input session and the advice they received about their policy packet. Members noted the following:

Reason for WG

One member noted that it was interesting that the WG is still getting comments about why this committee exists - and some people still feel that it shouldn't. They also noted that there is bad information out there from both sides, and there needs to be a lot of education about these policies and their rationale.

Poll Questions

One member asked what "neither" meant in the registration demographic questions, and felt confusion around what "other" meant in the category of how people use STRs. They noted that this information feels skewed, since their organization looked at voter information and estimated that about 20% of people who STR their home are voters, but half of the people from the polls STR or own their home. These numbers do not seem to represent the island.

One member noted that the neither could be the child of owners, which was the response they gave to the survey question.

Stacie noted that CBI was able to correlate answers to the survey at the end of the meeting, which asked people how they felt about each of the draft bylaws and the packet as a whole. She noted that there was not a clear pattern of support for or against the package based on whether they supported the Zoning article. One member noted concern with using the poll because it is not representative of the voter base. Stacie noted that the group wants support from the voters, but the group is also working for a set of policies that work for everyone. The member disagreed, noting that it should support the goals of the group, but that there is never going to be something that everyone is going to support. They added that a big measure of success for this group is having wide support at Town Meeting.

Getting to Consensus

One member noted that when the STRWG conducts polls, they need to use plain language. They felt the poll was confusing, and it could have been made easier for people to understand. Another member agreed that while it wasn't representative, the fact that the number of people for and against STRs had similar support of the package might mean the policies are hitting the middle ground.

One member added that the group's charter aims for overwhelming support, but it's an unrealistic goal. This is very contentious, and although the group is working together, they have been tasked with a very difficult task. Another member agreed that the articles need to have something in there for everyone, but that the voters will be the ones needed to pass the bylaws.

Updated Data

Stacie then turned to Matt Haffenreffer to give an updated presentation on the Process First Data. As Matt gave his presentation, he gave WG members an opportunity to ask questions and make comments. They noted the following:

NAREB Data

Matt began his presentation by saying that NAREB has published their report, and that he does not believe it said anything that Process First was not expecting nor does it go against the trends they were finding. He said they still do not have NAREB usage data, but he did not expect that to change the WG's analysis significantly.

One member noted that one aspect of the NAREB data changed their perception of how hard it might be to get a 2 week rental. Another member noted that NAREB does not rent less than a week, unlike Airbnb. A member said he was surprised that so many STRs averaged 31 days or less total per year, adding that they thought it would be much longer. Someone asked Process First about length of stays on platforms vs. NAREB, and Matt noted that almost all NAREB stays are 1 week or longer, whereas the average on platforms was around 6 days..

Comparing Home Sales to STR registration, by Price

Matt shared a chart that showed the number of residential, arm's length sales for 2 million dollars or less from 2017-2022. The chart showed that 674 homes were purchased for \$2M or less during that time period, and that 374 (~55%) of those were then registered to non-Nantucket addresses. Of those 374, 132 (~35%) registered for an STR license. Of the 300 (~45%) homes purchased in that same time period by owners with Nantucket addresses, only 32 (~11%) then registered as STRs. After being asked by the group to examine a lower price point of \$1.25M, Matt showed that a smaller percentage went to off-island addresses (~38%) but a similar percentage of those (~38%) registering as STRs.

One member asked if this accounted for off island Trusts that use local law firms. Matt said it did not, but felt that situation was not a big enough factor to make a significant impact in the numbers.

A member said this data shows the pressure from off island buyers on the housing market, and that those buyers have higher a propensity to turn homes into STRs. Another member added that historically, home sales have gone to off island homeowners, so that part is not necessarily a new trend. Someone else added that the State Registration started in 2019, so whether those homes were used as STRs before that time is unknown.

One member asked if Process First took out anything that was deed restricted at the 2 million price point, because they are not allowed to be used as STRs. They added that this data point should be updated as time goes on, so they are able to see if people who are buying homes are waiting a set period before beginning to STR it. Matt noted that they did not take out deed restricted properties.

One member noted concern that the threshold for affordable housing was 2 million dollars, because that was not actually affordable. They added that addressing affordable housing on the island was not the WG's task, and the Town should have spent the money they used for this committee on an affordable housing committee. Matt noted that the group's charter does include addressing the intersection of STRs and the availability of year-round housing. Another member added that this data gives us information about attainable housing, and highlights that it is in fact attainable because almost half of the houses went to year-round residents. They added that the policy levers that are working to address the loss of year-round housing to STRs should aim for an outcome of equity, not an outcome of equality.

Limiting to 4 Contracts Following Transfers

Matt then showed data from 2019 – 2022 comparing sales and STR registrations, categorizing each sale or title reorganization by whether it became an STR, continued as an STR, or stopped being an STR, in order to evaluate the potential impact of a policy lever that would limit 4 STR contracts following property transfer. This data also included information on homes that were not transferred but had new or renewed STR status. The data showed that, if the average behavior from 2020 - 2023 was applied to this new mechanism, the rate of growth of STR leases available in high season would slow, but that growth would still continue. He noted that this data suggests that this policy lever is unlikely to drastically reduce the number of STR contracts available to visitors.

One member noted a concern that this is a snapshot in time, and expressed concern that this lever could still hurt individuals, both in the prices of homes, and the ability for new owners to leverage STR income. They felt that the data cannot give us comfort that this policy would not

have a negative effect over time. Matt agreed that this graph just shows the changes over time but does not make any economic assumptions. He clarified that this suggests that the overall capacity of the island's STRs in the summer are not at risk in the way others have noted. One member said that they disagreed with that conclusion.

Another member noted that as time goes on, the Town will have more information from the registration data. They added that they disagreed with the characterization that this lever would add pain to new home buyers since they would understand these new regulations going into the purchase. Another member added that the community could adjust these policies at a future Town Meeting if they are causing more harm than good.

One member noted that Matt had incorrectly assumed 4 levers for re-organizations, which should remain at 9. This would reduce the impact of the lever on STR availability even further.

One member highlighted that the slowing of growth of STRs is part of the goal, as it is the growth of STRs that spurs a major concern. There is an attainable housing crisis on the island, and one thing driving the crazy home prices is the fact that off-island owners are willing to spend much more than they normally could afford because they know they are going to be able to use it as an STR. This creates an impossible market for year rounders. Our policies should not allow for every property on the island to be STRs, and if people want to rent for a few weeks in the summer or in the off season, all these homes will be able to STR. They further noted that this group is trying to protect a minority of homeowners.

One member reminded the group that since the WG is going to allow grandfathering, the concern of losing too many STRs is not going to be an issue for a long time. They suggested that the bylaw create a pathway for new owners to rent more than 4 contracts (up to 9 contracts like everyone else) after 5 years. Another member noted serious concern about making different rules for different classes of residents, reiterating that non-voting taxpayers should be treated equally.

Getting to Consensus

Stacie then reminded the group about the rules for decision making in the Charter:

The group, to the extent possible, will operate by consensus, which is defined as unanimous concurrence of the primary members, or in the absence of a primary, his or her alternate. Members may also "abstain," or stand aside. Abstaining means not offering consent or endorsement, but also not blocking an agreement. Abstaining members will not be counted in determining if consensus has been reached.

She added that if Members cannot live with the package as it is, they need to come with suggestions that will allow them to support the package and are in line with the agreed upon goals, knowing that not everyone is going to love all aspects of the package. She then asked for any members who had serious concerns about this package to name what changes they would need the group to consider supporting it. Members with concerns suggested the following changes:

The text in red indicates changes WG members would like to see made to the current bylaws.

General Bylaw Provisions (to take effect ONLY if Zoning Bylaw also passes):

- An owner may register to operate only one dwelling unit as a short-term rental.
 - *Member suggested the language in this lever change to include multiple dwellings or guest houses on one property. One member agreed that the language should be changed to "one property or lot" rather than "dwelling unit".*
 - *One member noted that multiple rentals on one property is an issue for nuisance, and against what the group is trying to do. Maybe there are options to split the rentals between the units, but not allow them to rent at the same time.*
 - *One member noted that since a property is registered as one that includes all the dwellings, language can be changed to say you can rent all of the dwellings on a property as part of one contact.*
- If a property is sold after this bylaw, the unit cannot change occupancy more than 4 times during July and August (residential exemption).
 - *Member suggested a sunset that would allow these properties to go back to 9 change limits 5 years after purchase. Another member seconded this idea but wanted the sunset to happen after 3 years. One member agreed to the idea of a sunset.*
 - *One member noted concern that investor only STRs would wait the 3-5 years in order to rent their property, but noted that they would be willing to vote for it if other felt it was important.*
 - *Another member noted that this might be a tool to create consensus.*
 - *Member suggested taking out the remove the residential exemption and make it the same number for everyone.*
 - *One member noted that data has been presented to the group that shows that year-round housing is going to seasonal residents, which is not an equitable outcome. Further, this policy lever is to deter or eliminate new investment only STRs.*
 - *Another member added that this lever bends the curve for attainable housing, acknowledge that nothing this group can do will fix it.*
 - *Member suggested that the 4 limit applies to everyone, but there is a pathway of situational or hardship exemption for people who need it (such as teachers).*

- *One member noted that hardship exemptions are embarrassing and the WG should not make neighbors go through this to rent their home.*
- *One member noted that many of the Board's (Board of Health, Planning Board, Select Board) are very busy, and the WG needs to check if they have capacity to hear exemptions. Stacie noted that a member of the Board of Health told her that as the enforcement board, they should not be tasked with handing out exemptions.*
- *One member suggested that they make the exemption for first time homeowners.*
- *Add a policy lever that would ask the Town to give incentives to homeowners to provide year-round housing.*
 - *One member noted that attainable housing was not in the groups charter, and they should not complicate the bylaws by including this.*
 - *One member noted there are many efforts being made by the town to address affordable and attainable housing initiatives, and the 3% Community Impact Fee will be allocating money toward those projects. This lever is not necessary.*
- *Specifically address protections for Seasonal Cottages in the General Bylaws.*
- *Add a policy lever that stopped or seriously impedes homes at a certain price point (ex: 2 million dollars).*

Zoning Bylaw Provision (to take effect ONLY if General Bylaw also passes):

- Add a definition of Short-Term Rental as "A dwelling unit or portion thereof registered and operated by the owner in accordance with Chapter 123 of the Town Code."
- Amend the use chart to allow Short-term rentals as a permissible use in all districts.
 - *One member noted that they did not support this aspect of the package, but they would vote for it if there was balance in the bylaws to regulate STRs.*
- *Change the Zoning bylaw to allows STRs as an accessory use.*
 - *A member noted that it is not clear exactly what accessory use would mean, and that there is no comfort in letting the ZBA or Town administration make determinations under accessory use because the legal ambiguity still allows for legal challenges.*
 - *One member felt that an accessory use Zoning would be financially devastating for families because it would not prevent lawsuits against them.*

General Comments:

One member spoke in favor of the current packet as it because it addresses all the issues the WG spent a long time discussing. Another member added that the WG is closer to agreement than they might think.

One member acknowledged the strong desire to treat year-round and seasonal residents equally, but noted that the current playing field is not equal for year-rounders. The people who live here year-round struggle with housing, and we have a responsibility to address that. They added that they are also the people voting for this package.

One member suggested that more of the package be broken up, especially the controversial policies like the limiting of 4 contracts, into a la carte bylaws, because they feared that people would vote the whole policy down if they did not like certain levers. Another member disagreed, noting that this policy lever must be in the main policy package to convince people to vote for it, because it adds balance. Another member noted that protection of year rounders should be included in the package, because it would be attractive to many voters.

One member explained that their policies already do not treat everyone equally - the grandfathering provision clearly advantages some people over others. Another member agreed with this point and noted that this is especially not fair for the neighbors who are currently living next to the full time STRs, both because of the nuisance and because this might impact their property values.

Stacie suggested adding some of the group's purposes into the draft bylaw language, including limiting investor only STRs, addressing churn, and preventing harm to existing homeowners. The group agreed that she should add these.

Next Meeting

Stacie suggested that the Working Group add an additional meeting on June 20th from 5:00pm – 8:00pm to ensure they can meet their deadline. The WG members agreed.

Public Comment

- Scott Wilson: Has the draft Warrant Article been updated by Town Council? We want to avoid a battle of amendments at Town Meeting, but I recommend the idea of a drafting committee to capture the intent of the group in the language. Also, the group should consider occupancy limits (such as bedrooms x2) because that has gotten very out of control.
- Kathy Baird: I am concerned about seasonal cottages. The concern I have is that the current owners are grandfathered, but when they sell their property the seasonal cottages (which cannot be used as year-round housing) will only be able to rent for 4 weeks. Also, I spoke to a family that has a main home and a cottage and their daughter lives across the street. They are under an LLC, and they are confused about how many units they will be allowed to operate.
- Bruce Mandel: Our community has a fairness concern because there are a lot of properties that rent to the same people year after year, or through others under the table.

means. There is no way to know if they are registered or paying the fees, but they are a nuisance and infrastructure concern to the community. Also, it feels like the public forum process is contrived because we are only allowed to discuss a pre-determined number of topics in small groups, and there is no other forum for the community to speak. It feels very limiting.

- Caroline Baltzer: Does any of the data quantify or demonstrate churn? How is churn different from the normal effects of high season that has been happening for decades? The definition of churn seems biased because it includes the cars of cleaners in driveways, but not giant fundraisers on private property.
- Alvin Fargo: Does anyone have an existing STR certificate? Because one of the levers specifically states that they can continue renting, and I have one with the State, but the Town has not created the paperwork for the Town Registration under Chapter 123. I am concerned about who this lever refers to.

Next Steps

Stacie Smith went over the next steps and action items:

- CBI will create a meeting summary
- CBI will create an agenda for the Meeting on June 20th
- Town staff will post all meeting materials to the project website.

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
Thomas Dixon, Affordable Housing Advocate
Jim Sulzer, At Large
Kathy Baird, Nantucket Together
Julia Lindner, Ack Now

Working Group Alternates:

Robin Nydes, Nantucket Together
Jon Delano, At Large
William Gardner, Advisory Committee of Non-Voting Taxpayers

Working Group Staff

Stacie Smith, Consensus Building Institute
Simenesh Semine, Consensus Building Institute
Megan Trudel, Planning Department Liaison
Adrian Rodriguez, Administrative Team