

Housing Committee Amended Minutes of September 6, 2018 Meeting

NOTE: The Housing Committee meetings are now live-streamed, which can be viewed at this link: http://townhallstreams.com/stream.php?location_id=42&id=16398 These minutes provide a record of those in attendance, general discussions taking place, and motions made.

A meeting of the Portland City Council's Housing Committee (HC) was held on Thursday, September 6, 2018 at 5:30 P.M. in Council Chambers at Portland's City Hall. Councilors present at the meeting included Committee members Councilor Kimberly Cook, Councilor Pious Ali, and Councilor Jill Duson, Chair of the Committee. City Council members present were Belinda Ray and Mayor Ethan Strimling. City staff present included Jeff Levine, Planning and Urban Development Department Director, Mary Davis Housing and Community Development Director, and Victoria Volent, Housing Programs Manager.

Item 1: Review and accept Minutes of previous meetings held on July 31, 2018

Motion by Councilor Ali to accept the minutes. Motion was seconded by Councilor Duson and minutes approved 2-0.

Item 2: Overview of Legal Framework for Municipal Fees, Land Use Controls and Exactions

Motion by Councilor Cook to enter into executive session. Motion was seconded by Councilor Ali and the motion unanimously approved 3-0. The Committee entered into executive session for purposes of consultation with Corporation Counsel's Office regarding legal rights and duties with respect to imposing fees pursuant to 1 M.R.S. § 405(E)

The Housing Committee suspended the regular meeting to enter into executive session.

The Housing Committee returned from executive session and resumed the regular meeting.

Item 3: Review and recommendation to the Housing Committee – Order 225-17/18 Referring an Increase in Short Term Rental Registration Fees to the Housing Committee.

Mayor Strimling provided an amendment for consideration as the City pulls together a policy regarding short-term rentals. The amendment is to ensure the city offsets the activity of short-term rentals replacing long-term rentals from the housing market with the goal of replacing the lost housing. The proposal would allow a means of replacing the long-term housing that is being lost to short-term rentals. Mayor Strimling provided an overview of the memo from October 7, 2016 ("*Short Term Rental (AirBnb) Regulations Framework*") for reconsideration, and a spreadsheet titled "*Impact of STR Fee Increase for*

Housing Trust” dated August 30, 2018. The spreadsheet contained three proposals and the potential impact on revenue collection. Mayor Strimling discussed each proposal noting that the increase in potential revenue could be used to help replace the housing that is lost to short-term rentals.

Chair Duson opened the item to public comment.

Anne Foster of Peaks Island- Is an Airbnb host. Noted there is a one hundred and fifty year tradition of renting homes on Peaks Island. The 65% of the units rented short-term are only seasonal. There is a need on Peaks Island. Hosts are using their on-site Airbnb to pay property taxes and utilities. The small-scale in-home renters and the large-scale commercial renters are two different worlds that should be separated during consideration. Would support more homework and precision.

Ralph Ashmore of Peaks Island – realtor on the island for thirty-seven years; manages short-term rentals and sales. Owners of short-term rentals rely on the seasonal income of their rental unit. Short-term rentals are second homes and not investment properties. There is a difference between the Island and the mainland as the Island is a vacation destination. Year round Islanders rely on the revenue from short-term rentals to sustain themselves and would not like to see any additional fees impact that economy. There is a distinction between the residential neighborhoods on the mainland and the history of vacation homes on the Island.

Karen Snyder Portland resident- Is against short-term rentals, except if the short-term rental is an owner occupied unit only. Allowing short-term rentals does not conserve the housing stock in the R – 6 zone of her neighborhood. Feels short-term rental owners make more money from short-term rentals than long-term rentals even if the units are empty part-time. Does not feel it is fair for property owners to live within such close proximity to short-term rentals (noise, nuisance).

Ralph Baldwin Commercial Street resident- Noted that two years ago, during a review of the data, it was determined that most likely the number of completely removed units from the long-term market was probably under 100. The number we are hearing now is 744, 760 or closer to 800. However not all of those units are units relevant to the discussion of how many units are being removed from the housing stock. Would like to know the “real” number of long-term units removed from the market. Should not include: Peaks Island; one-bedroom units; one, two or three-week only renters; empty buildings; rentals listed for only one or two weeks from owners who leave the short-term rental market; and short-term rentals listed for two months by speculators. Wants to work towards truth and accuracy. Regarding fees- the current fees are fairly high. The fees between owner occupied and non-owner occupied fees should be different to stop speculative developers.

The public hearing was closed.

Chair Duson would like Mike Russell to provide an update to his previous spreadsheet titled “number of short-term rentals units registered by the number and type of applicant”, dated July 31, 2018. She would also like to know how many units are being removed from the long-term market.

Councilor Ali- Would like to know the number of short-term units that could be a possible long-term unit for September 26 meeting.

Councilor Cook- Would like to know the history of how the definition of non-owner occupied unit was arrived at.

Chair Duson– Responded that, after a thorough discussion, the Committee determined a single-family short-term rental could only be done as an owner occupied unit. The further definition of an owner-occupied in a multiple unit building did allow someone who owns a triple decker to register all three units including their own as an owner-occupied short-term rental. The history of this definition was to provide a distinction between speculative developers’ non-owner occupied properties, and property owners (such as those on Peaks Island) who have a tradition of renting out their homes to raise funds necessary to keep their homes.

Mayor Strimling – Would like clarification as to how many units are truly owner-occupied units as opposed to how many units exist in an owner-occupied property. This information is important for the understanding of the units that fall under the 300 unit cap. The Mayor’s amendment would provide details on the current data to clarify which units are owner-occupied versus any units that is not owner occupied but are in an owner-occupied building.

Chair Duson- Would like to receive updated data from Permitting and Inspections that distinguishes between owner-occupied units and units in an owner-occupied building that are not housing the owner. Would like to know if the cap is being under counted due to the definition of “owner occupied”

Councilor Duson would like to see a copy of the short-term rental registration form for the next meeting.

Councilor Cook- Ordinance does specify the use of an affidavit to determine the owner’s primary residence. Wants to tighten up the verification and determination of a primary residency. Feels the ordinance has a discrepancy between the definition of unit and building.

Mayor Strimling- Noted South Portland determines primary residency as the property in which a resident takes their Homestead Exemption.

Councilor Ali- Would like to know if the property locations are on the rental application form?

Councilor Duson – Would like a copy of STR and LTR application for next meeting.

Item 4: Review and discussion of possible changes to the Condominium Conversion Ordinance

Section 14-565 – 14-571.

Victoria Volent introduced the item. Mayor Strimling inquired into the filing and registration process.

Jeff Levine provided further background into how the permitting process and notification of a condo sale by the Registry of Deeds works. Mayor Strimling feels the condo conversion fee is too low. Jeff Levine indicated staff could look into the fee to ensure it covers the administrative costs.

Item 5: Review and discussion of a proposed ordinance addressing new hotel developments and affordable housing demand

Jeff Levine introduced the item and thanked the Innkeepers Association for their generous time and data. Staff contacted GPCOG with the request they review the data and methodology of their earlier study based on the questions raised by the Committee and the Innkeepers Association. GPCOG reran their study using new wage data and ensured they captured the city's minimum wage rate. The outcome is three different scenarios. The original review (of \$5,000 impact per room) still contains merit using the assumption that employees work full time. The second scenario held the same assumption and the assumption workers were paid the city's minimum wage to arrive at a \$3,800 impact per room). The third scenario used data provided by the Department of Labor. The impact per room was calculated as \$2,600 per room. Staff worked with Corporation Counsel on a draft an ordinance for the hotel linkage fee. The primary option in the ordinance is for hotel developers to provide rental housing units on site for eligible households. An alternative option would be a fee-in-lieu. The decision process by the developer would occur during site plan review by the Planning Board. The Planning Board has scheduled a workshop on this item for September 25th, and a public hearing on early October.

Councilor Cook asked if the Committee needs to take action at the September 26 meeting as any item from the Planning Board will go to the Council.

Chair Duson asked the Committee if they would like to provide guidance to the Planning Board on the three proposals for consideration. Councilor Cook prefers the middle number for Planning Board consideration. Councilor Ali concurs with Councilor Cook, and looks forward to a second review when the item is brought to full Council. Chair Duson agrees with taking the middle road on the amount and will not be taking formal action on the matter, as the Planning Board will be sending it back to the Council.

Item 6: Commuication Item: Review of Map of City-Owned Property

Victoria Volent presented an annotated interactive map of city-owned property to the Committee. The presentation was a preview to update the Committee and offer an opportunity for additional feedback. The map is not quite ready pending further feedback from an internal department review.

Item 7: Communication Item: Accessory Dwelling Units

Victoria Volent presented an update of ReCode Portland's activities concerning the regulation of Accessory Dwelling Unit (ADU), along with a link to ReCode Portland's webpage explaining the role ADUs play in diversifying housing options. ReCode Portland's next steps with ADUs are to broaden

opportunities for implementation, reducing unwanted regulatory constraints, and employing consistent terminology.

Item 8: Committee Discussion re: 2018 Work Plan

The committee was expecting a communication item from Permitting & Inspections for their September 26 meeting (responses to the questions raised at the July 31 meeting regarding rental housing safety and inspections program and short term rental registration program). They would like to change the item to a "Review and Discussion" item instead of a simple communication item. During that discussion, they will flush out some proposed policy changes for the long and short term rental registration programs. They may take public comment.

At the October 11 meeting the Committee is expecting an overview and integrated report from Permitting and Inspections and the Fire Department regarding long term and short term safety inspections and a detailed program budget report. Public comment will be taken after the presentation. In addition the October 11 meeting will also include proposed policy changes for the long term rental registration program and the short term rental registration program, with a public hearing and possible action by the committee.

On a motion made by Council Cook and seconded by Councilor Ali (approved 3-0) the meeting was adjourned at 8:45 pm.

Respectfully submitted,
Victoria Volent