

## PLANNING AND ZONING COMMISSION

There was a special call meeting of the Indian River County (IRC) Planning and Zoning Commission (PZC) on Thursday, June 2, 2016 at 7:00 p.m. in the Commission Chambers of the County Administration Building, 1801 27th Street, Vero Beach, Florida. You may hear an audio of the meeting; review the meeting agenda, backup material and the minutes on the Indian River County website [www.ircgov.com/Boards/PZC/2015](http://www.ircgov.com/Boards/PZC/2015).

Present were members: Chairman Alan Polackwich Sr., District 2 Appointee; Maria Caldarone, District 3 Appointee; Dr. Jonathan Day, District 4 Appointee; Brad Emmons, District 5 Appointee; Jordan Stewart and Todd Brognano, Members-at-Large.

Charles Rednour, District 1 Appointee, and Shawn Frost, non-voting School Board Liaison, were absent.

Also present was IRC staff: Bill DeBaal, Deputy County Attorney; Stan Boling, Community Development Director; John McCoy, Chief of Current Development; and Lisa Carlson, Recording Secretary.

### **Call to Order and Pledge of Allegiance**

The meeting was called to order at 7:00 p.m. and all stood for the Pledge of Allegiance.

### **Public Hearing (continued from May 26, 2016 meeting)**

#### **A. Consideration of Proposed Vacation Rental Ordinance Establishing a Local License Requirement and Vacation Rental Regulations [Legislative]**

Chairman Polackwich summarized that this is an ordinance adoption process which requires a public hearing with this commission that in the end will make a recommendation to the Board of County Commissioners (BCC). He went on to remind the commissioners that they had opened a lengthy public hearing the week before and closed it and that tonight they would sift through alternatives on some of the issues and ultimately come up with an ordinance to recommend to the BCC. He stated that while he does not intend to reopen the public hearing, our county does have a spirit of audience participation so as motions are made, he will give members of the audience an opportunity to speak on that specific motion, provided it is not a repeat of previous testimony.

Mr. Stan Boling, Community Development Director, reviewed in detail items discussed at the May 26, 2016 public hearing that have been tentatively added to the proposed ordinance.

Chairman Polackwich suggested a tentative motion to approve the following items that were added to the proposed ordinance as the commissioners appear to be in agreement. He went on to say that after all tentative motions have been voted on, there will be a final motion to adopt the ordinance as revised.

(9)(a) For purposes of vacation rental regulations, “bedroom” is defined as follows: any room used principally for sleeping purposes and meeting applicable building code requirements for a bedroom.

(9)(c)7d Noise regulations: Chapter 974 noise regulations which include day and night decibel level limitations, more stringent “no disturbance” requirements from 10 p.m. to 6 a.m., and no excessive noise that would cause annoyance to any reasonable person of normal sensitivity.

(9)(c)8 Acknowledgement that the following information will be posted or displayed inside the vacation rental unit prior to inspection of the unit by the county code enforcement officer and shall thereafter be continuously posted or displayed inside the vacation rental unit.

(9)(c)8-4 Noise regulations day and night decibel level limitations, more stringent “no disturbance” requirements from 10 p.m. to 6 a.m., and no excessive noise that would cause annoyance to any reasonable person of normal sensitivity.

(9)(c)10 Acknowledgement that the owner or manager shall provide in writing to each rental party prior to the party’s use of the vacation rental unit a copy of the information required to be posted or displayed in paragraph (c)8 above.

**ON TENTATIVE MOTION BY Mr. Emmons,  
SECONDED BY Mr. Brognano, the members voted  
unanimously (6-0) to approve revised staff  
recommendations for items (9)(a), (9)(c)7d, (9)(c)8-4  
and (9)(c)10 of the proposed vacation rental  
ordinance.**

At the request of Chairman Polackwich, Mr. Glen Powell, chairman of the Short Term Vacation Rental Advisory Committee (STVRAC) and owner of four

vacation rentals in Roseland, discussed at length current procedures for providing renters with information about each specific rental unit and answered questions by commissioners.

The commissioners discussed item (9)(d)7 “The local license number, and the occupancy limit confirmed by the county code enforcement officer, shall appear or be stated in any vacation rental unit advertisement or any rental offering associated with a vacation rental unit” and suggested adding verbiage relating to sea turtle information for properties east of highway A1A, parking limitations and noise regulations. In addition, they felt that item (9)(c)10 should be removed.

Dr. Miles Conway, President of the South Beach Property Owners Association (SBPOA) challenged the commissioners regarding their expectations about this aspect of the ordinance. He maintained that in the majority of short term vacation rental transactions, there was very little communication between the owner and renter and that this paperwork would not be a deterrent to poor conduct.

**ON TENTATIVE MOTION BY Mr. Brognano, SECONDED BY Dr. Day, the members voted unanimously (6-0) to approve revised staff recommendations for item (9)(d)7 of the proposed vacation rental ordinance and to remove item (9)(c)10.**

Mr. Bill DeBaal, Deputy County Attorney, reviewed the addition of (9)(e) regarding the interim operation of vacation rental units, (9)(f) regarding phased in reduction in overnight maximum sleeping occupancy and (9)(g) regarding claim of contract impairment.

**ON TENTATIVE MOTION BY Mr. Emmons, SECONDED BY Mr. Brognano, the members voted unanimously (6-0) to approve revised staff recommendations for items (9)(e) and (9)(g) to be added the proposed vacation rental ordinance.**

The commissioners discussed item (9)(b) regarding the proposed three-year transferable license issued by the county for all short term vacation rentals and received clarification from Mr. Boling.

Mr. Joseph Paladin, Vice Chairman of the STVRAC, voiced his opinion as to the legality of a three-year county license versus a one-year license that matches the state requirement.

Dr. Conway spoke out against the three-year county license and suggested an annual renewal of the license with home inspections every three years.

**ON TENTATIVE MOTION BY Dr. Day, SECONDED BY Mr. Stewart, the members voted (5-1) to approve staff recommendations for item (9)(b) that the county licenses will be of a three-year duration. Mr. Emmons was the opposing vote.**

**ON TENTATIVE MOTION BY Mr. Brognano, SECONDED BY Ms. Caldarone, the members voted unanimously (6-0) to approve staff recommendations for item (9)(b) to retain the existing language regarding transferable licenses.**

The commissioners debated item (9)(d)4 regarding the overnight maximum sleeping occupancy of vacation rentals. Staff recommendation is that the overnight maximum sleeping occupancy of a vacation rental unit shall not exceed the following:

- a. For a unit served by public sewer service, two persons per bedroom plus two additional persons.
- b. For a unit served by an on-site sewage treatment and disposal system (septic/drainfield system), two persons per bedroom plus two additional persons or a number of persons accommodated by the system as determined by the health department, whichever number of persons is less. The unit occupancy limit confirmed by the county code enforcement officer shall be stated on the local license.

Ms. Sharon Kramer described her family's vacation rental business and expressed her opinion against the proposed occupancy limits.

Mr. Paladin discussed the thought process behind the STVRAC's sleeping occupancy limits and the new proposal for a cap of ten persons for any rental unit.

Mr. Carter Taylor, treasurer of the SBPOA, discussed the necessity of a cap on maximum sleeping occupancy of vacation rentals. He felt that not having a cap could provide incentive for future developers to include more bedrooms in order to circumvent the ordinance.

Mr. Powell reminded everyone that the purpose of this ordinance was to minimize disruption in neighborhoods containing vacation rentals which was largely taken care of when the county passed the ordinance last year limiting commercial events in residential areas. He felt that staff's occupancy recommendation was a perfect scenario that protected property-owners as well as renters.

Dr. Conway spoke out against staff's recommendation.

**ON TENTATIVE MOTION BY Ms. Caldarone, SECONDED BY Mr. Stewart, the members voted (5-1) to adopt staff recommendations for item (9)(d)4 regarding overnight maximum sleeping occupancy of a vacation rental unit. Mr. Emmons was the opposing vote.**

The commissioners debated item (7)(d) regarding noise regulations that coincide with county's Chapter 974 regulations which include day and night decibel level limitations, more stringent "no disturbance" requirements from 10 p.m. to 6 a.m. and no excessive noise that would cause annoyance to any reasonable person of normal sensibility.

**ON TENTATIVE MOTION BY Mr. Emmons, SECONDED BY Dr. Day, the members voted unanimously (6-0) to adopt staff recommendations for item (7)(d) regarding noise regulations at a vacation rental unit.**

The commissioners discussed a recommendation by the SBPOA that requires vacation rental owners to submit evidence of commercial vacation rental liability insurance with their application for a county license. No motion was made.

The commissioners discussed item (9)(c)6 in the proposed ordinance requiring verification and inspections by vacation rental owners that are served by on-site sewage treatment and disposal systems.

Mr. Jeff Zurface, vacation rental owner, stated that his rental has a septic system but the health department has no record of it. He was advised of the existing process of getting an evaluation of the system by a septic contractor and turning it in to the health department.

Mr. Taylor stated that he attended five out of six STRVAC meetings and had pointed out that there is a requirement under state law for septic inspections for properties changing their use.

**ON TENTATIVE MOTION BY Mr. Emmons, SECONDED BY Ms. Caldarone, the members voted unanimously (6-0) to adopt staff recommendations for item (9)(c)6 regarding on-site sewage treatment and disposal systems at vacation rental properties.**

Chairman Polackwich invited a motion which incorporates the changes made tonight to staff's recommendations.

Mr. Taylor discussed his concern that under Florida law, vacation rentals are considered to be public lodging establishments and as such require public accommodations. Therefore, if a vacation rental does not provide access to the disabled then they are being discriminated against under the Florida civil liberties.

**ON MOTION BY Ms. Caldarone, SECONDED BY Mr. Stewart, the members voted (5-1) to adopt staff recommendations with the changes made at this meeting for the vacation rental ordinance. Mr. Emmons was the opposing vote.**

Mr. Boling reviewed the proposed schedule of fines that would be imposed for violations for the vacation rental ordinance.

- a) Parking fine of \$50 per vehicle per day and \$100 per vehicle per day for repeat violations;
- b) \$100 per day after thirty business day window to obtain and maintain license;
- c) \$100 per violation for contact information violation;
- d) Commercial event at residence \$1000 first violation and \$5000 per violations thereafter.

After discussion by the commissioners and Mr. DeBraal, the following was added to the schedule of fines.

- e) Noise violations will be addressed separately with \$100 for the first occurrence and any subsequent incidents will be \$300.

Mr. Taylor voiced his opinion against the proposed fines, particularly for the more expensive rentals. He also felt that there should be a provision for the property-owner having their license suspended or revoked for repeat offenses.

Chairman Polackwich responded to Mr. Taylor's remarks that this had been addressed at the first meeting and the advice of the county attorney's office was that we as a county cannot revoke licenses as this is part of the prohibition preemption that we cannot stop people from having vacation rentals. Repeated violations would have to be dealt with by the court system.

Mr. DeBraal explained that repeat violations would be reported to the Department of Business and Professional Regulation (DBBR), who could take action against the state issued license. They could suspend or revoke the state issued license which would put the unit owner in violation of our county code because they are required to have a state license in order to have a county license. He went on to point out that vacation rentals are viewed the same as a hotel/motel where law enforcement eviction authority was concerned and the business owner can work together with a sheriff's deputy to immediately evict violators from the premises.

Mr. Zurface inquired as to when an owner would be notified of fines because they have thirty days to refund the vacation rental deposit. Mr. Boling replied that the manager/owner would be notified immediately of any problems brought to the attention of code enforcement staff.

Dr. Conway questioned whether the noise violations would be imposed under 974.03 or 974.05 and who would be the fining officer. He pointed out that out of the 1492 noise complaints in the county last year, only one made it to code enforcement and there was no fine while three were arrested by law enforcement but for battery rather than noise. Mr. Boling replied that both ordinances would be used and can be enforced by both code enforcement and law enforcement.

**ON MOTION BY Mr. Emmons, SECONDED BY Mr. Brognano, the members voted unanimously (6-0) to treat noise violations separately than other violations with a \$100 fine for the first occurrence and \$300 for any subsequent incidents.**

There was a brief discussion regarding the progress report that would be prepared and presented by staff after one year of the ordinance.

**ON MOTION BY Mr. Emmons, SECONDED BY Dr. Day, the members voted unanimously (6-0) to adopt staff recommendations to have staff prepare and present a progress report to the BCC at a BCC meeting.**

**Commissioner’s Matters**

There were none.

**Planning Matters**

Mr. Boling advised that there would be no need for a June 9, 2016 meeting.

**Attorney’s Matters**

There were none.

**Adjournment**

There being no further business, the meeting adjourned at 9:35 p.m.

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Chairman Alan Polackwich

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Date

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Lisa Carlson, Recording Secretary

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Date