

Ocean Beach Planning Board

Wednesday, August 5, 2020

Virtual

MEMBERS PRESENT (Checked if in attendance / # represents district / Note of arrival time in box if late)			
X 1E Tracy Dezenzo	X 3E Virginia Wilson	X 5E Numan Stotz (Late)	X 7E Nicole Ueno
X 1O Derek Dudek	X 3O Chris Chalupsky	X 5O George McCalla	X 7O Andrew Waltz
X 2E Jane Gawronski	X 4E Anthony Ciulla	X 6E Kevin Hastings	X ALE Andrea Schlageter
X 2O Richard Merriman	X 4O Craig Klein	X 6O Tom Gawronski	X ALO Jenna Tatum

CALLED TO ORDER: 7:06pm **ADJOURNED:** 9:02pm

AGENDA MODIFICATIONS & APPROVAL

TD/GM 15/0/0 MOTION: Approve with the possibility of having to move the information item further down the agenda as presenter was running late

MINUTES MODIFICATIONS & APPROVAL

TD/KH 15/0/1 (DD Abstained because of absence at previous meeting) **MOTION:** Approve with minor edits that were emailed by GM

REPRESENTATIVES REPORT

City Council District 2 Jennifer Campbell – Teodoro (Teddy) Martinez

- We continue to work with you guys on traffic concerns that we've seen in the last several weeks, we've gotten emails about traffic issues along Sunset Cliffs Boulevard and near Voltaire. We've seen a spike in emails to us asking us to look at traffic studies.
- Left turn arrows as you as you come into Ocean Beach. This is something we're looking into. I don't have a timeline, right now, on how quickly we can get something like that, put through but we are looking at it.
- The other issue is the timed parking, the town council has been advocating for and gotten some community response on the Ocean Beach dog beach parking lots, the lifeguard station and parking lot. Really trying to create more access for folks as there are people who park there all day and they take up space, preventing other folks from coming in and enjoying the beach, so we are looking at what a timed parking situation would look like. This would require some action by the Coastal Commission but we think we have potential to do something with this so we're looking into it and will likely need a signal of support or an approval from the planning board so we'll be talking with you all about it and we'll be looking over that over for the next month or two. It would possibly require a traffic study as well so we are in talks with the department to get that going and we think it will be a good victory for OB.
- Most recently there has been an issue with Wednesday evening crowds. The OB Town Council did submit a letter to us wanting us to look into what the options were, there's a range of issues that are encompassed within the Wednesday evening crowd, it kind of is multifaceted so when our office looks at it we have to kind of parse things out and see what solutions there might be to each individual problem. Some of it has to do with trash gathering due to the increase in crowds. Some of it has to do with loud music that's coming up at the Veteran's Plaza. And some of it has to do with non-permitted vendors. So we're looking at these issues kind of at once but kind of looking at them separately. They would require different solutions, but just wanted to give you a heads up that we're looking into it. The good news is that San Diego PD has responded and knows that there's complaints about the noise which is something they can enforce, some of the other trickier issues like mask wearing and social distancing are a bit trickier to enforce since there's no clear codified law on them. We continue to employ the Mayor and the county to enforce social distancing and mass gatherings and the council member speaks about quite regularly. We'll continue to do that and also look at other options to try to quell some of the crowds on Wednesday evenings and also some of the non-permitted activity that happens on Wednesday and sometimes throughout the week too. We know it's an issue and so we're looking at that.

TD: expressed concern that Council is blaming the OBMA for the chaos at Veterans Plaza.

AS: Asked about passing the Street Vending Ordinance.

Teddy replied: I think that originally so we haven't really had this problem until like last month or so because the, the market was closed for the majority of the year. Right now the markets opened up the crowds are back and so I think that's the connection there. But you know that the vendor's ordinance conversation was something that was getting a little bit of

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momentum late last year, and then hit the brakes as soon as the pandemic hit. It's something we're looking at again, to be frank, there was a draft kind of flying around a vendor's ordinance that we saw that a lot of other council members had issue with. And that makes sense, I think that the issue that happens in Ocean Beach is unique to the city and isn't something that we really see in other places, as specific to how OB is and so I think that a blanket ordinance for the city does create a little bit of a cookie cutter, that doesn't really fit the mold of each community and so we are looking at ways to figure out what would it look like for OB. The original state legislation, it makes it clear what the law is today. The city can person ordinance and there are options to look at what that would look like around the farmers market specifically. That way, we're really tailoring it to what the problem is and not capturing folks who are trying to make a living during a pandemic. So there is some sensitivity there but yes we are looking at that conversation as things are opening up again.

DD: Expressed concern over the traffic issues at Voltaire and Sunset Cliffs Blvd. Asked about installing a left turn arrows, stop sign, back up between the parks, maybe widening the road between the parks, asked about a traffic study to determine the feasibility of one way traffic south on SSC and north on Ebers.

Teddy replied: Hey Derrick, I'd be happy to chat with you more. I have heard conversations about redoing that entire intersection that's kind of a cluster. As you enter the 8, some of it would require state and Caltrans cooperation so it's kind of it's somewhat in the city jurisdiction, but also would require some collaboration with the state, since it is a highway area, but it is something that we've looked at, we haven't gotten into that's obviously something that would be a much longer term projects similar to the Mission Bay Bridge and timelines can run quite long with a project like that. We've heard discussions on it but I'd be happy to connect with you and figure out how we could revive that discussion. In terms of the left turn arrow. Those are things we're looking at more quickly, whether that would create necessitated traffic studies something we're getting info on, and we'll be looking at the stop sign issue. I think the stop signs would be something that the planning board could look at through its, its traffic committee, and we would obviously seek approval there. I know that the board has looked at some streets along Sunset Cliffs to install stop signs there. We're definitely going to look at that. Yeah, it can be dangerous along Sunset Cliffs. I'll be following up with Andrea to figure out how we can get approval for something like that.

CK: Refocusing on Veteran's Plaza issue. It's not the OBMA's or farmers market. There shouldn't be any delay in enforcement or large gatherings.

CC: STVR. Disappointed in the process that took place regarding the proposed ordinance and even though he asked every at every meeting if something was in progress we were getting vague answers. How did that occur and why were we not considered as it was happening?

Teddy replied: It's something that isn't set in stone and the ordinance isn't developed at all it's something that an agreement occurred between two major stakeholders in that space, and an ordinance is still forthcoming, and planning board has been really kind of engaged with us much more than a lot of other communities in terms of what they'd like to see and we've taken all of that, that into account especially Andrea and Kevin we've had conversations with the council member but definitely understand the confusion there and hope we can we can clear that up.

Assemblyman Todd Gloria – Michaela Valk

- DMV updates for you and your neighbors if you're over the age of 70. You have a year extension. If your license is expiring in 2020, so there's no need to rush to the DMV. However, if you are under 70 years old, and your license is expiring between March and December of this year, you will need to try to renew online. If you have any issues, renewing online. The suggestion is to go ahead and complete the REAL ID application and then, although the DMV is not taking new appointment as capacity allowed, they will accept REAL ID applicants.
- Legislative timeline is coming up really fast, and the state constitution. You know states that all legislation must be passed by August 31, at any given COVID and a couple of outbreaks that happened last month, committees are trying to meet as soon as possible to get through several bills, but bills have been limited in terms of how many each house is going to pass.
- I wanted to mention to Andrea, because I know she'd been following the Senate housing bills that are going through the Assembly. We did think they were going to go through the Assembly Housing Committee. Most of them are actually going through the local government committee so what that means for San Diego perspective. Most of the bills, except for SB 1085 will not be voted on by the Assembly Member until the Assembly floor. So, that again the deadline would be sometime this month.
- I did receive the press release, and you know the suggestions and I think all the planning groups are kind of set on those I know Miller is going to be touching on the Senate housing goals during his report.
- One of the Assembly bills that we do hope to pass during this legislative year is our bill to help the facilitation of the NAVWAR site between the Navy and SANDAG, and that is AB 2731 so we do hope that will pass.

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Senator Toni Atkins Report – Miller Saltzman

- Senate Bill 899 allows affordable housing on land owned by religious institutions, and independent nonprofit colleges.
- Senate Bill 902 allows local governments to pass a zoning ordinance for up to 10 units, without triggering CEQA in areas that are transit rich and urban fill. And that's entirely opt in, on the local governments part.
- Senate Bill 995, but as Senator Atkins extends AB 900 process for environmental leadership development projects. So it lowers the dollar threshold from \$100 million in investment to \$15,000 and 15% affordable housing.
- Senate Bill 1085 enhances the density bonus law by increasing the number of incentives provided to developers in exchange for providing more affordable units and
- Senate Bill 1120, by Senator Atkins adds the ADU law, creating law splits additional ADU use, but they can be used for short term vacation rentals because the minimum stay is 30 days. So there's some more local control in that.
- Senate Bill 1385 allows residential development on land zoned for commercial office and retail by making housing an eligible use on those sites.
- Senate Bill 1410, which is an optional agreement between the state landlords and tenants to avoid evictions and foreclosures. So during the COVID-19 pandemic tax credits can be given in the amount of the missed rent from the state to the landlord. And then tenants pay back the rent to the state over 10 years, interest free and beginning 2024, and it can be forgiven, or reduced based on their median income.
- There's 100 billion dollar economic recovery fund plan as part of the budget which would establish through prepaid future tax vouchers, this fund, and providing an economic stimulus for our state.
- DMV issues or unemployment issues we're still always here to help. So feel free to reach out.

NON-AGENDA PUBLIC COMMENT:

Sara Davis presented herself as a candidate for State Assembly 78th District as well as discussed her period supply drive. www.votesarahdavis.com. If you are able to contribute to the supplies drive, here is the link with details www.votesarahdavis.com/cms/tampons

Nancy Kelly SDG&E franchise is ending. City Council meeting tomorrow will be discussing it.

ACTION ITEMS

ITEM #1: Spray Street Park Improvements

The board will review the Parks Ad-Hoc Committee's recommendations for improved amenities at Spray street Park or the grass space adjacent to Dog Beach parking lot. *See supplement info and concept map on website.*

TD: presented the map/floor plan that she conceptualized and read the motion that the Ad Hoc developed for review.

NU: I don't think I have anything to add other than the fact that this is a currently kind of an underutilized space that I think could really be just utilized better, for the better benefit of the surrounding community. I think Tracy did a great job with putting together a proposal and I'd like to move it forward to the board to talk with Parks and Rec about.

GM: nice plan

CC: Yeah, I just want to comment that it looks like a lot of thought, did go into this proposed plan I'm definitely in favor as we've talked about in the previous meeting. You know more of these smaller, work out stations in remote areas, I think, is something that is lacking right now for, for our community. So I support that. And of course, wherever we can integrate art. I'm 100% there and Tracy and I am happy to be a resource in that effort because what you described in terms of the integrated surface for the workout area or the gazebo or Wayfinding. It's everything we talk about at the airport and we're developing a plan with some of these exact same things in play for the potential new terminal and standing airport. So I like what I see. That's my comment.

JT: echo Nicole's comment

AS: Echo the statement that it's a underutilized space and I think we shouldn't seek, putting things that will draw as we say family, community members out there. I know we'll have this on our radar the Ocean Beach dog beach parking lot is a place where a lot of transients gather people are living out of their cars, or in it overnight and it sometimes can become a lot and you know the activities that come with it. So I think really encouraging further community gathering at the these parks, especially when it's families, and other community members that would use this daily, maybe for the circuit court or other patios would decrease the amount of problems we see going on in that area. Placemaking is always can always be something good for the community and I know a lot of times we run away from amenities, out of fear that they might draw different crowds, but I think, I think that we shouldn't be necessarily scared, in this

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instance I think that the unused space draws that crowd more so than the amenities were seeking that.

KH: Breaks my heart to restrict access to legitimate users. There should be a different way to address this.

TD: Shelter Island has designated RV parking. Longer spaces. Adding bollards to prevent encroaching on the park space.

KH: we need enforcement

DD: parking lot is extremely crowded, has any thought been given to adding additional parking?

PUBLIC COMMENT:

Denny: I live nearby and think this is a great idea.

Susan: any height limitations need to allow for vehicles such as fire trucks

Motion TD/NS: Motion to adopt this drawing as a conceptual plan to better utilize the existing park space and make it more community and visitor friendly. Suggest incorporation of 6 cycle track stations, designated picnic area with more picnic tables, designated play/activity areas, way-finding signs, community garden or pollination garden and public art in multiple places. In addition, incorporate bollards to prevent large vehicles that may encroach on the grass or exercise areas.

Vote: 16/0/0 (Unanimous)

ITEM #2: STVR Ad-Hoc Committee Recommendations

The board will review the STVR Ad-Hoc Committee's recommendations in regards to Councilmember Jennifer Campbell's STVR Memo.

Campbell: Okay. All right, so I just wanted to start out by thanking you for having us. And we appreciate your interest tremendously, of course. And I just want to tell you that this is not the Campbell MOU. This is an agreement between Expedia and Unite Here Union that they worked out together with us, helping them along. Our aim is to provide more housing for San Diegans by reducing the huge number of short term rentals in San Diego that are the whole home rentals. We have at least 16,000 short-term rentals now in the city, most of which are in our district have those 80 to 90% our whole home rentals. What we'd like to do is put a cap on the number of full time rentals. So the more thousands of homes and apartments will be available for urban San Diegans to either buy or rent to live in full time. So, that is, that was our main objective. Our second objective was to provide regulation and enforcement that's strong, so that people who live in our district, and other districts that have short-term rentals can live in peace and tranquility. And so to do that, we are working with the city attorney's to make strong enforcement and regulations. And so, I know you guys have sent us questions, and we'd be happy to answer them. My Chief of Staff Venus is here and she can help answer the questions as well.

KH: Describes the tiers. So, it would put up a cap, as I think, point 7% of total housing units. And that's full time rentals. You know the ones we typically think of outside of Mission Beach and then Mission Beach has a much more liberal - we're not allowed. There are other types. The home sharing where the host is actually there on-site for in a duplex situation. Those would be allowed without limitation. And there's, you know there's permitting of course, for those and then the other type was a temporary rental for like Comic Con and things like that so you live there, and you just rent your place out, just for, I think under 30 days, over a course of the year. So that was another type. So those are the different types, we're talking about, so it would include full time. You know Airbnb as well. Oh, and also the other, the other relevant thing. And this, this is still sort of unsettled for me but there's a, an attempt to restrict those permits to one per owner or one per or one person, one per LLC I'm not exactly sure how that would be applied but that the intention I understood. **Campbell:** What we are trying to do is make it a one person. So, one permit for social security number, and we're working with the city to see if we can completely leave out corporations LLC's and those type of companies that tend to try to take over whole buildings, etc. We would like it to just be one person, one social security number in one tier.

CK: what do you mean leave out?

Campbell: Well, we would like to have the licenses go to individuals.

CK: So you're suggesting that the ordinance that you would propose would prohibit entities of any sort, for holding title to any, any STVR property. Only an individual could own property.

Campbell: Well, some individuals have trusts.

CK: Why no distance restriction between STV on our uses.

Campbell: That was one of the questions you guys asked about distance restrictions. And again, that we're taking up with a city attorney so we'll bring in thoughts. Please tell me what you think about that.

CK: Well, it's a good way to enforce

VM: One of the reasons that this kind of the restrictions on locations and distance, because we are decreasing the number for switch rotations significantly. So that was, I think that was one of the things that that we looked at because the number has decreased so much it's closer to 70% at this point. That's one of the things that we kind of did. It didn't apply, because there's going to be a lot less

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STVR out there

CK: I'd like to Kevin to address the distance restriction, but I also like to ask you about the elephant in the room, which is, how are you going to get, if you're going to go from 16,000 down to 4,000. How are you going to deal with the 12,000 people that have been making a bunch of money, who are now shut down? Seems to be there's going to be a bunch of lawsuits over vested property rights, have you thought about that.

VM: I can actually answer that Councilmember because that didn't work. I mean, and I can speak to the attorneys and the platforms and as well so that when the premises already agreed and Expedia and they understand and they've actually met with their operators as well as AirBnB. They're not at the point yet, or we're in conversations with them as well. And they've spoken to their operators as well. So, if this regulation comes into its voting on this year, it probably wouldn't be implemented, until next year, but they would have a grace period, there's a couple things that the operators would require for unentanglement. And, this wouldn't be something that would happen right away. And then we've talked to the city attorney about this and so there's actually a grace period and a method and where we can definitely give them an opportunity to unwind. So you can see this effect, till about July of 2021, there's a way of doing that and both operators are very much informed and me know that this is something that that would happen, and we have to push back on that so I can tell you right now that this is not a controversial issue for them.

NU: Could you just clarify, are you saying that there's 12,000 current short term Vacation Rentals that will voluntarily give up their vacation rentals?

VM: It's not voluntarily because I think what we're looking for are the best actors and the best actual operators that are out there and because there is a limited amount of permits that will be available. The best actors are the ones that are actually going to attain it. So right now we're looking with on different methods on how we're going to provide those permits and give those matches to the most in the most political and legal way, that's where the city attorney is looking into this, whether it's a lottery, or it's grandfathering in the best actors we really don't know at the moment, obviously, with the best legal way where our own city attorney is looking into it. So, if it's a lottery, obviously we want the best actors and we want the people that are good neighbors and will probably have this provision that the people that maybe have not been troubled homes or troubled operators in the past so we're looking at those kind of provisions so that we get the best of the best. The great thing, having a cap on this as well is that although in the past, people would wait in line paying enforcement fees. You know, they would pay 10,000 or 4000 whatever fees, we would charge, but now they have exclusive rights and so that actually puts the fear in a lot of folks because losing their permits means they're not going to be getting a new job, using it for whatever amount of years that we set those permits. So that's a stronger enforcement on already. And that's what we're working on our end.

NU: I think those are both big question marks at this point, both reinforcement where the enforcement's going to come from. And then also the framework on what that's going to look like to reduce that number of permits. So I think without more information on that it's hard to get a clearer understanding of this proposal.

VM: And also I would share that we have, because obviously we don't have all the answers, and we can, if you framework or vision of what we would like to see and that's like to hear from all of us, but I think the great thing about this and that is we take it back to our city attorney, and at the same time we're having an all hands meeting with city departments, because obviously I don't always know what the treasurer's office needs. See, so we have an all hands meeting with all of the involved, departments to kind of figure out who's going to do what we're just going to live and what it is that we meet first and to set right. So we actually have that set up for this month. So we'll have a little bit more information.

AS: Yeah, that was my question. I know at the beginning we wanted to mention that it was an agreement between Expedia and Unite here but you guys facilitated so then what is your, your office's next step, where do you see this agreement going and what do you want to see from us?

Campbell: What we're doing now is we're working with the city attorneys to try and craft and also meeting with the city departments, so that we can craft the regulations and enforcement pieces, and have them actually be real. We want this to really work this time. We want to have it be successful and so again, you know, with the main focus being to bring more housing to our own citizens and to create peace and tranquility in the STVR business world for neighborhoods where people live where there are STVRs. And so we will we will keep that in mind, and we will have to figure out from the, the auditor's and the independent budget analyst, etc., how much fees, we will have to charge in order to have enough money to enforce well, and to do a good job, and we also want to make sure that there is a method in there that we can revisit this yearly at least, so that when problems arise, we will be able to correct them and fix them. And as times change we will be able to move forward with making sure that things work better.

TD: how are you going to compromise with Airbnb who wants to double the amount of permits

VM: I can I can address that I've actually had ongoing meetings with Airbnb and obviously, the last thing that they had they want to increase their number to 1.2% I believe. We talked about that, and obviously those numbers are not going to work with the compromise that we have, you know. Our goal was to bring more housing to the market. Our goal was to limit the cap and the amount of short term vacation rentals. Now there's a lot of things on the enforcement side that they've also requested so we're trying to figure out, you know,

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kind of like a best case scenario. They're still at the table, we're still talking to them just like we're talking to you guys and we're talking to anybody that is open to providing input as we create this ordinance because it has to be an ordinance that works for everyone and so that's why it's important that every meeting is still at the table and like I said, there's a lot of things that they've presented, other than the 1.2%, which I think is a high number and we can definitely have a conversation about that and we will. Because I think they got numbers a little too high for us right now.

KH: the cap is going to I think remove a lot from the suburbs that are very profitable. I don't think it's gonna remove anything from the beach areas, especially if permit fees are high so I'm not sure if this is actually going to result in a reduction here, or maybe even an increase, especially since it exempts duplexes. The reason that other people have put in duplexes are, you know, I live on site on rent my other unit our Airbnb was sort of exchange for removing the whole home rentals, it was sort of a trade off, but now this proposal has both. So I wanted to mention that on my concern on the cap is obviously a distance restriction would really go a long ways to prevent anyone from being overwhelmed on their particular block, which is happening right now and I think will still happen under this proposal. The other thing I wanted to bring up I think it's even a bigger elephant is the issue of how we got here, the premises that we can't enforce the existing code, and I was hoping that council members office could get more detail on why they believe that is the case.

Campbell: Well we have, we have a several reasons. First of all, this has been going on for many years now and the lawyers tell us that once the city has not taken care of its regulation and indeed has actually charged things to the court and collected taxes from the people who are doing this, that the courts will side with those people and not with the city, if they try to totally ban them. So that's number one, number two is the Coastal Commission, the Coastal Commission has ruled up and down the coast, that we cannot ban short-term rentals, especially from beach areas. So that is unfortunately true now they tell us that they are fine with us limiting the number, we have spoken with the Coastal Commission and they've been in on our plans. They are fine with us limiting the number of whole home rentals they understand that California, and San Diego especially is in need of more housing for our own residents. So they're willing to go along with the limit but they will not allow us to totally ban. So we are unfortunately, if, when this had all started maybe 10 years ago. The city had clamped down, maybe we would have a position. We started out from our office trying to ban them. That was our first plan. And as it turned out, we've been able to negotiate 78% of them gone. And that is a huge advantage for our citizens. So that was that was the best we could do and we're delighted that we could get that far along. So that's what we hope to do, we'll have many more apartments and homes on the market for people to either buy or to rent to live in full time.

AS: So even if we aren't seeking a full ban and just ban in specifically residential zones and we're allowing it in mixed use and commercial zones that still wouldn't fly, because then it would be some zones that would be okay, just not the things that are you know restricted for 30 day or longer rentals at this point.

Campbell: Yeah, we'll see. That's another thing that we're discussing with the city attorneys, the zoning is pretty complex as you know and so we're trying to figure out how we can, how we can do that I'll be really interested in Kevin's idea about the distance between them and if he could, if he has any ideas as to exactly how that would work I would love for him to send an email to the office so we can, you know, fly his ideas with the city attorney's and try to work something out to make it more. And, and better for citizens,

CK: Jen that's already been discussed and it's done in San Luis Obispo and that information has been provided to you by John Thickstun and other people who have been involved in this issue and you should already have information regarding the distance restriction which was adopted by San Luis Obispo, and which has been approved but it's also finishing up there so that's that is part of the knowledge base right now you should already have that information.

CC: I made a comment at the beginning of the meeting that I'm disappointed in the amount of community engagement to get us to this point and so, I'm looking for a better relationship in the in these conversations going forward. So, that's the comment. I also have a comment in relation to what I'm seeing in MOU, I think there are some good things here obviously someone needs to step up we've asked him for this for a long time and so, I am pleased to see that there's effort. Again, we didn't receive the updates in a way that I wish we would have or been engaged in a way that we should have been, but I am happy to see that at least we are now back on track to trying to solve this issue. My question is, in MOU, tier three, the whole home rental and I just want to make sure I'm reading this right, in these tier three properties they can be rented for more than 30 days, is that correct?

Campbell: Yes. Okay.

CC: And it also looks like the language identifies that no person can hold more than one permit for a whole month. Campbell: Well, yes for any of the four tiers they can only hold one permit or license.

Campbell: Please reach out to us we're always happy to engage with you guys. We've been engaging with various community groups, and various community leaders for a year and a half. Ever since I got into office, and I've actually been interested in this subject for about 10 years, I used to be a member of Save San Diego Neighborhoods myself. But when they became all or nothing it was obvious that we have to have a compromise. So I'm now trying to help us to get to reach that compromise and make available 10 to 12,000 more housing units for people.

CC: I just think, maybe with more in depth updates from Teddy, these meetings could have been helpful I'm not trying to move backwards but we are here to work with you and so let's do that.

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KH: My question is can we consider this a work in progress in, you know, seriously give the residents a seat at the table instead of, you know, hotel unions I get it, we're far apart, but you're not gonna get any favor out of, out of residences that are not deeply involved in the process, and I'm absolutely willing to do it. I've been living and breathing this for years and as part of the community.

Campbell: As have we and yes we have met in the office with Andrea and many people from OB over the past year and a half and we were all we are always happy to meet more with you, we love your ideas and we love that you that you are really, you're so good at collecting data we're so appreciative of that and, you know, yes, we definitely. I know you personally might feel that your input hasn't been as broad as you would like it to be but we're happy to hear from you anytime, please send us emails, phone calls, talk to Venus if you want to set us up in person, or at least by Zoom until the COVIDs over and, you know, we're just we're definitely you guys live it. You guys know what's going on. I've lived it myself in my neighborhood. And believe me, we are all on the same page. We will do everything we can, with the city attorney's that's within the law, I'm sure you can appreciate how legally complicated this situation is, but we're doing our best to put ourselves out there and try to resolve the situation as best we can. So thank you so much, I really appreciate you.

AS: Has there been any changes made to the MOU as of yet, or is it planning to go to counsel as is or yet what is the timeline

Campbell: The MOU, you have to understand is between those two parties, the two parties are down it means.

AS: So you're willing to put forward a different ordinance with different specifications. And we should be putting together our negotiating positions.

VM: We were able to bring in these two very opposing groups together, to kind of have a seat at the table because we knew that anything was going to pass these two folks needed to be on the table and they needed to be in some kind of agreement, right, so that we can actually move forward and they wouldn't be fighting out for each other or everybody else said that if they both agreed to certain terms, we're creating an ordinance—now some of these things will change—think of it as a skeleton of the ordinance that we as a community as an office, we have to fill in the blanks and we have to fill in, you know, all of the meat to it so that's why we're getting all of the input information from all of you guys in different groups. It's not too late, it's not coming to Council, until probably September after the recess, of course, so there's plenty of time we have recess, August, which we will make ourselves available.

CK: Have the platforms that you entered into the MOU with, have they taken a position with respect to opposing a distance restriction? Is that a nonstarter for them, because that's a big deal?

VM: Well I think that's a conversation we're willing to have I think we didn't really have. I mean, once we reduced the numbers, our focus was to reducing the numbers and releasing a lot of housing. So we'll definitely go back with this option, because like we said our focus was section of the numbers and attack. So we'll definitely bring this up, I knew it wasn't something that they were very happy about because of their reduction in the numbers, but it's definitely something we could take back, because if that's something that's big for you guys as a community.

GM: We have 3 social security numbers in our home. We could get 3 permits based on socials?

KH: that needs to be looked at closely.

AS: So, I know the legal precedent question has really been eating away at us and I, I think it's hard to move forward with this conversation until that's adequately addressed. So, if I can have Craig and Cory maybe further comments on that and while again while they're commenting, you should be able to see all of what the STVR subcommittee has been working on up on your screen now.

CK: defers to Cory.

Cory Briggs: I'm a lawyer who works on enforcing municipal code issues code enforcement environmental issues so I know this area, fairly well, let me just start by telling you, this is not complicated at all. It's being made complicated by the proposal and if the public is supportive of the proposal or some new set of regulations that's up to the public in the city council. Right now, it's not complicated, because there's already a cap on short term vacation rentals, the cap is zero. Under the municipal code, short term vacation rentals are not listed as an authorized use, and under our form of zoning regulation, if it's not explicitly listed, it's prohibited. Period. We have what's known as a permissive code. If the code does not expressly permit the use is prohibited. So, we already have a cap of zero. Any discussion about a proposal that will reduce the number from 16,000 to anything above zero is not a prohibition or a reduction is an authorization.

AS: So what is the truth then to the possible litigation that could come about if we do seek to put further regulations on the books.

CB: If you, if you try to authorize them you're still going to have to go to the Coastal Commission for approval, the Coastal Commission has already approved, our zoning code. They did that long ago, decades ago. We already have the Coastal Commission's blessing. The reason that the Coastal Commission has made an issue out of it recently, just because short term vacation rentals are a relatively new phenomenon, with the intensity that we've seen over the last several years and so the Coastal Commission is trying to strike a balance to maintain access to the coast and also maintain quality of life and coastal communities. However, they approved, our rules, long ago. Things don't become legal because the government doesn't enforce them, just a few weeks ago the Supreme Court ruled on a case involving the state of Oklahoma, where much of the state remains as a Native American reservation. Even though the federal government the state government have not treated it that way for over 100 years, and justice Gorsuch said at the end of the ruling, I

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won't quote it verbatim but he essentially said, just because the government doesn't enforce the law, that's that doesn't make it okay to change the law. If the government hasn't enforced the rules the law is still on the books, and the reason courts will still enforce the law, a long time after it was put on the books and even after years of non enforcement is because as Justice Gorsuch said, if you did, otherwise the losers would be the people who followed and relied on the law and the winners would be the law breakers and we don't live in a society where people who follow the rules lose, and people who break the rules when. So, we have a prohibition now, if the public wants to allow them. That's what's on the table but nobody should be duped into believing that this is somehow an elimination of short term vacation rentals. It is an authorization of short-term vacation rentals. Now, part of the proposal is that only individual human beings with social security numbers will get them, that's almost certainly unconstitutional. The Supreme Court has already said that corporations have the same first amendment rights as human beings do, and so, if that logic applies in everything else we do and by the way it does corporations can own businesses just like individuals. There's no way to rationally distinguish between a corporation, on a short term vacation rental and an individual and the gentleman, but just says what about my family, we've got three short term vacation rentals. People can form as many entities as they want. It's illegal to say that an entity can't do something that a human being can do unless you have a really good reason, and if you just look around, most properties that are on the rental market are entities anyways, so the suggestion that they'll be able to lawfully limit it to individuals, that is what's going to draw litigation. The last thing I would tell you is that you could have a City Attorney who could simply issue cease and desist letters for the code violations that are currently happening, initial letter, the City Attorney has statutory authority already without the Mayor's approval in the City Council's approval to shut them down. The easiest thing to do is send them out to the short-term vacation rental owners and start with the biggest fish first. There's no statute of limitations for failure to enforce. There was a question about what do you do for people who've been doing this a long, long time. For those few people who can prove that they were doing this decades ago, before the code prohibited short term vacation rentals. Those folks will be entitled to a non conforming use and that's a constitutionally recognized mechanism for allowing things that used to be lawful that are now illegal to remain in use as long as they were lawful at the time they started. If people have documentation to prove that that's what they were doing those folks would be grandfathered in.

CK: what about RM-5 12 zones, which allow for visitor accommodation. I read that is, it would be is in those zones, it would be allowable because RM-5 12 zones does allow visitor accommodation. What are your thoughts?

CB: If you don't have an explicit authorization it's prohibited.

UNK: Short Term Vacation Rentals may or may not fall under the definition of visitor accommodations visitor accommodations are generally hotels, motels and bed and breakfasts, and they all comply with the appropriate regulations that are applied to those kinds of visitor accommodations. So, short term Vacation Rentals may not be allowed in as Chris pointed out and as they are the code in that particular zone, because they may not comply with the appropriate regulation that is, you know, fire alarms fire escapes, exodus, entries egress Ingress parking, all the things that hotels, motels and bed and breakfasts are required.

CB: Correct. That's the reason I wanted to see the language. There are a bunch of Health and Safety Code provisions that apply to hotels and motels and breakfasts, and I just wanted to see whether whatever language they use and that RM 5 12, make some sort of reference to that if it does, it would mean short term Vacation Rentals still aren't allowed.

KH: is 100% against whole home STVRs in residential zones and being held hostage by these companies.

AS: we can decide what our position is.

NU: would hate for the Board to miss out on drafting something if the Council takes this up soon.

AW: In favor of waiting but include why we are waiting to make recommendations.

CK: There is no legislation. There's only a MOU between 2 parties who are not the legislators. Until there is legislation, we really don't have anything to comment on.

Andrea asked **Kevin** to discuss what the STVR came up with in response to the MOU.

Recommendations for the full board consider:

1. Duplexes or ADU properties should be Tier 3, not Tier 2. These are not home shares and remove naturally occurring affordable housing inventory. It also creates possible loopholes on multifamily complexes.
2. Parcels that benefit from any housing subsidies (new ADUs, density bonuses, reduced fees, etc.) should be expressly prohibited from full-time STVR use on premises.
3. Require 100-ft distance between Tier 3 permits in RS and RM zones to reduce impact on residents.
4. Permits must be linked to a unique owner/ person. Remove LLC, lessor and other loopholes for stand-in hosts. Campbell should consult with a real estate attorney to ensure the 1 permit restriction works as intended.
5. Permits must be non-transferrable.
6. Remove Bed and Breakfast provisions from current code, these should be subject to same rules as Tier 2 or Tier 3 permits.
7. Commercial Zones should be Tier 4.
8. Regarding enforcement, change "may" and "possible" to "shall, must" etc.



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9. Max guests shall be 2 persons per bedroom +1.
10. Change minimum to 3 days.

PUBLIC COMMENT:

Nancy: What if that is the case at this group and Corey states, why has none of that been done? Why are we still in this place, why has the city not enforced?

Andrea replies: So that is a mayor's office, and I know I sound like a broken record and I hate myself for continuing to say it but the mayor's office does enforce that mechanism.

Corey: City Attorney can enforce or Mayor can enforce. You just need one to do it.

Keith: So my concern is no matter what the law is the enforcement community it just seems it the whole thing seems sort of ludicrous we have laws that are not being enforced. Until we enforce, no law matters.

Tiernan: I wanted to go ahead and thank you guys for taking the initiative and the topic and you using the tier method to take into consideration the kind of all the ways people are using short term vacation rentals, as someone who uses that as a way to help us pay our mortgage and be able to actually afford our home. I wanted to thank you guys for keeping your mind open and considering the different tier levels and considering how the housing market is here and the way that people potentially use the short term Vacation Rentals as a way to be able to afford to be a resident of OB.

PBTC: 100% for enforcing the original code and want to pursue that option. They felt left out of the planning.

MOTION: CK/TD Move to table any motion with respect to supporting any proposed legislation until 1. After the election, 2. Until they settle law re enforcement of existing code. 3. Compete draft legislation presented in final form. The ad hoc committee can continue to present input in the interim.

MOTION WITHDRAWN

MOTION KH/TD: The OBPB refuses to support the MOU or anything permitting whole home rentals until the existing code enforceability is settled, and until the mayoral election, and until the communities are given a seat at the table with competing interests such as vacation rental platforms.

Vote: 15/1/0 (All present-Yay, with the exception of CC-Nay)

INFORMATION ITEMS

Information Item #1: West Point Loma Blvd Roundabout – Steven Bliss, Civil Engineer

The board was presented with the plans for the upcoming roundabout and other ADA upgrades along West Point Loma Blvd.

TD: Discussed that she felt the traffic study was inadequate and didn't represent the area's higher traffic times appropriately. Events, beach days and weekends are going to cause a huge backup and people will not be able to progress though the intersection as it will be a parking lot. The light is severely mistimed for a roundabout and it will need to be adjusted. There has also not been adequate noticing. I only know of 1 neighbor who received either of the 2 notices. Where is the breakdown in noticing?

SB: Says holiday and event traffic is accounted for. Roundabouts keep traffic moving.

TD: reiterates that the traffic will back up because of the SC/WPL intersection. The traffic will not queue anywhere because it's going to be backed up at SC/WPL.

SB: 1st mailing was mailed to owners.

TD: I spoke to my owner neighbors and they have not received any letter

SB: 2nd mailing was sent to owners and renters.

TD: no one has gotten this notice.

SB: complaints are concerning and he will check into it. Contractor is supposed to notice as well.

KH: Is the city looking at the other intersections? Why are we fixing this when the bottleneck is elsewhere? Why are we are only looking at this one intersection? They work better in groups.

SB: yes. There is another one being looked at further down on Bacon. Intersection was first looked at for ADA compliance.

JG: Rotaries where she grew up and thinks they're wonderful.

DD: odd choice for the location. Need to happen in multiples. SC/WPL/Voltaire is the cause of a lot of traffic back ups.

NU: echo Tracy's concern out outbound traffic. How does this effect traffic in roundabout?

SB: will address the traffic timing

AS: it's the entire string of lighting all the way to the freeway.

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PUBLIC COMMENT:

NU: We've been talking about this for about 10 years and believe it will be a benefit to the area. Subcommittee has discussed adding additional ones.

BO: the big concern is normal weekends already cause concerns of backup. The roundabout will queue up faster but because of the backup will cause delays to get into the roundabout as well.

AS: one lane roundabout has a potential for getting clogged

Beth: Nimitz West Point Loma Boulevard, turning making a right turn onto West Point Loma Boulevard from Nimitz we just have a bike lane there and everyone just uses it as a glorified right hand turn lane so it would be nice to actually make that a legitimate right hand turn, as opposed to just the bike lane. It's next to kind of a grassy area in a park. So maybe we can borrow some land from there.

Denise: she's glad to see the ADA issues are being addressed. However, she's still concerned about pedestrian safety, especially for our neighbors who are visually impaired so just making sure that all of our ADA spikes are covered and that pedestrian safety is one of the number one priorities.

Andrea: I hear a lot of the community you know talking about that light, I would say it's an issue that needs to be fixed now, I would urge everyone to make this a community action on this and get into contact with our council member offices and then, as well as transportation and storm water and see if we can't make a fuss about that light timing, that can be something fixed a little bit quicker and sooner.

OFFICER / SUBCOMMITTEE REPORTS:

Chair: tomorrow, city council meets on 101 Ash. Complete Comm. will not be docketed until after August recess. Keep making noise. Next month: Midway Planning Group proposed 30 ft height limit and parking discussion.

Vice Chair: no PRC in August but one will happen in September.

Treasure Report: \$1,382.13

Secretary Report: n/a

KH: is the STVR still active? **AS:** will leave it up to the Chair (AC).

LIAISON REPORTS:

Historical Society: No general meetings. Maybe in October.

Forestry: last meeting canceled at last minute

CDC: still moving forward with Veteran's Plaza

PBPB: Announced election results

