

BRIGHTON SHORT TERM RENTAL SUB COMMITTEE MEETING MINUTES

Thursday, August 25th, 2022 at 4:00pm

*Approved at the Town Council Meeting on 9/13/22

ATTENDANCE

Jeff Bossard (meeting chair), Carolyn Keigley, Jenna Malone, Barbara Cameron, Carole McCalla, Cameron Platt, Dan Knopp, Kara John, B Tucker, Ben Bennett, Cheryl Lenzer, William Farrell, Edylyn Salas, Tom Ward, M. Stewart, Ash, Jim Nakamura, Soroush, Erin O'Kelley, Wendy Gurr, Brian Reynolds, Chad Smith, Patricia M., Renae Olsen, Ulrich Brunhart, Wayne Dial

PUBLIC INPUT

1) The comment was delivered verbally and received by email.
My name is Ben Bennett.

My wife and I are part time residents of the Town of Brighton. Our home is located in the Pine Tree neighborhood at 6270 Rivers End Road. I appreciate the STR committee providing a few minutes for public input.

In addition to enjoying time in the canyon throughout the year, I also volunteer a considerable amount of my personal time working with two different water companies in the canyon (one of the largest and one of the smallest) to ensure that residents in those areas continue to enjoy reliable, clean drinking water.

The most rewarding part of this volunteer work has been getting to know many residents on a personal basis... I now consider some of them to be some of my closest friends. We are very committed to Big Cottonwood Canyon.

For the record, I appreciate (and in fact support) the Town of Brighton's intent to address concerns raised by full time residents regarding short term rentals. While I don't agree with all aspects of Brighton's current short term rental ordinance, I do agree with and support the intent of the ordinance.

I also find it encouraging that the STR committee started this meeting reviewing actual facts about short term rentals including the number of actual complaints.

In an effort to better understand the facts myself, earlier this year, I submitted a GRAMA request to the MSD for all STR complaints between March 2021 to March 2022.

I received the following data:

1. There were a total of 12 complaints during that 12 month period (this doesn't include a test complaint)

2. Of the 12 complaints, more than half of them, 7 in total, appear to have come from one property located in the Brighton loop.
3. 1 of the complaints came from Silver Fork
4. 0 complaints came from the Pine Tree neighborhood

I also took the time to read each and every complaint that was submitted. For the record, I don't condone or excuse any of the behavior by any STR host that resulted in the complaint. In fact, I'm in full support of the Town's efforts to follow up and resolve these complaints. We all need to be good neighbors.

At the same time, I would strongly caution all of us from assuming that the negative things that have happened with very few short term rentals is or will happen with all short term rentals.

In light of the facts, I find it premature to be discussing limitations on short term rentals by neighborhood and /or from a licensing stand point.

When the Town Council put the STR ordinance in place, the intent that I heard was to make STRs a permitted use, to streamline the application process and reduce the cost.

At no time did I ever hear that the council's intent was to limit the number of STRs. And, I would argue that the data does not support limiting the number of STRs (at least not at this time).

Allowing some residents to offset the high cost of ownership of their property via STR while restricting others from doing the same ultimately turns into the Town Council picking winners and losers (no matter what you call it).

I'd strongly encourage the Town Council to rely on the data and the facts to guide any further action. I'd encourage the Town Council to focus energy on responding to and addressing complaints and issues with the ordinances and systems in place.

Instead of taking an ordinance or regulatory based approach, I'd encourage the STR committee to work closely with individuals who care both about the community as well as property rights. If my work with the two different water companies has taught me anything, it is that the best solutions have come from sitting down, listening and understanding differing viewpoints and then working together to develop solutions that are acceptable to everyone (note that I used the word acceptable vs. perfect).

I appreciate your service on behalf of all of us as members of the Town Council and thank you for an opportunity to provide input on this important topic.

Thank you

- 2) Soroush Zaryoun echoed the sentiments of Ben Bennet. He's lived in Utah for 24 years and has seen the canyon become increasingly busy. He purchased a property in Pine Tree two and a half years ago for a future retirement home, but in the meantime enjoys it part time and would like to rent it out short-term part of the time. He also serves as a member of the Pine Tree water company and he appreciates how precious our canyon and its resources are. He noted the variety of individuals and the different uses of the canyon. The bad reputation associated with short term rentals are only because of a few bad names. He appreciates the opportunity to provide input. He would like to see us keep the canyon pristine and continue to enjoy the natural resources that the canyon gives us year-round; and, we should be able to share this place with others that will do so in a responsible way. The owners are the ones to set the expectations with the neighbors and with the renters. When he rented his property, it was left clean, and the renters were cordial. It was because of the expectations he set. A few bad incidents should not dictate what the rest of the property owners are allowed to do.
- 3) Chad Smith is against a density restriction that would allow some homes to rent an unlimited 365 days a year while preventing others with a cap who may only want to rent a few weeks a year such as a house swap. It seems fundamentally unfair both in lifestyle and in finances. It sets up contention in neighborhoods. It sets up the wrong incentives. We want people to keep their property rights, have some short-term rentals, and have a canyon that is livable. He plans to eventually have his primary residence in the canyon. He explained the reason there might not be more people against this. There are three sides to this, one are the people who are grandfathered in with a valid license and wouldn't complain about a cap because it would eliminate further competition. Second are those who don't ever plan to do short-term rentals and are desperate for a solution. Third are a small group of people that are resisting a cap because they have future intentions to rent but aren't prepared to do so today. Over time this will become the largest group because their neighbors will be renting 365 days a year and may be an absentee landlord with no skin in the game as far as the neighborhood quality of living. Even though the council decided against it, a limit to the number of days a place can be rented may be a more appropriate way to limit density. The mayor was concerned about enforcement, but it's been successful in other communities. Losing a license indefinitely could help to encourage compliance. We need to align the rules with our goals. Owners that use their properties will ensure good renters opposed to absentee owners that look at their property as a cash cow.

Written Public Comment

Dear Council Staff,

I own the lot on 6261 S Greens Basin road and plan to build my primary residence there very soon!

The following are my comments regarding the discussion on short term rental density restrictions by neighborhood in the town of Brighton.

The restrictions and regulations set in place in ordinance 5.19 SHORT-TERM RENTALS are adequate and offer a good balance for everyone to enjoy their own private property rights. I think the current policies are fair and not over intrusive on private property rights so long as they are enforced properly.

However, any discussion or action to limit the use of a property as a short term rental property is a direct violation of those rights. The fact is that Brighton is a recreation and resort town. It is not only part of the town's economy. It IS the town's economy.

From what I understand there is discussion to limit the number of people who can use their property as desired based on the proximity to ski resorts. Ski resorts are not the only recreational activity that is offered by the town of Brighton and its surrounding resources. Mountain biking, hiking, climbing, and trail running, just to name a few, are all very much a part of what makes this town awesome in addition to what the resorts offer. To limit the amount of people that desire to use their property to capitalize on these additional recreational activities is not only wrong, it's criminal!

I believe strongly in being able to use your property for the highest and best use possible without infringing on the property rights and property values of neighbors. This is why I think that the current regulations are fair. I do not see how a restriction like this would accomplish anything more than what would already be accomplished if the current regulations are enforced properly.

Under the current regulations the properties are required to be held up to certain standards. I think this is best for the property owners, the guests, and the neighbors in our town. There will always be guests, owners, and property managers going in and out of these properties. I find these to be way less of a liability than seasonal cabins that are left vacant for months or years on end that become dilapidated or damaged when something breaks or gets left on and isn't quickly caught. These seasonal properties are more of a detriment to property values and neighboring properties. They can become unsightly and they pose fire risks due to lack of maintaining defensible spaces and sometimes waste water and other resources when things get left on. That all being said, that right to use that property in that way has been preserved for those property owners, as it should.

Do NOT limit the number of properties that can be used as a short term rental in any area of Brighton! Doing so would limit private property rights and would in turn limit the highest and best use of each person's property and would affect the overall value of the property for property owners.

Thanks for your time and consideration!
Brian Summers

BUSINESS

Report on STR permit numbers

Kara John reported that a count of the MSD's list of Business Licenses shows 158 total short-term rental licenses. Of those, Brighton has 16, Pine Tree has 1, Silver Fork has 10, Solitude has 131 and a couple of those are in Giles Flat.

There are 16 total pending business license applications in the MSD system. That breaks down by neighborhood with Brighton having 5, Forest Glen with 1, Pine Tree with 2, Silver Fork with 5, and Solitude with 3.

Jeff commented that some of the pending applications are more than a year old and questioned why it takes so long. Erin O'Kelley from the MSD explained that the land use permit is required before the business license. The time it takes to approve can vary depending on several factors. There can be a delay while waiting on an agency for inspection. Another hold up is if it's an aging structure that requires the owner to make changes or updates before approval.

MSD staff report on STR complaints and enforcement

There have been 4 complaints in the last six months. Three were in Granicus and a separate complaint directly to the MSD problem reporter. Code enforcement has sent letters to the owners of these complaints educating them that they need to come into compliance. No fines have been levied at this point for illegal short-term rentals. Erin O'Kelley further explained that there is a certain amount of time after a notice of noncompliance is issued to allow the property owner to respond or remedy the issue before a citation is sent. Evidence is needed to issue a citation. Cameron Platt clarified that a review may not be enough to issue a citation, but it would lead to confronting the owner. The burden of proof is dependent on the preponderance of evidence at 51%. If a neighbor talks to a renter who says they are renting the property, that is evidence. Dan Knopp noted that the overall goal is to change behavior and get everyone to rent properly. There may be people who still figure out how to skirt the law and rent illegally. Enforcement and penalties need to be successful to dissuade people from renting illegally. He brought to attention a recent incident where a renter at an illegal STR had two service dogs and children that were trespassing on a resident's property with a very sick family member home. The parent became confrontational when the resident demanded the kids leave. In this case, it was a weekend evening and for immediate enforcement for dogs in the watershed and to deescalate tempers, a call to UPD would have been appropriate. Jim Nakamura explained that this rental property began the permit process a few years ago when it was still a conditional use permit. When the process changed to permitted use, they refunded his Planning Commission Fee. They sent him fire and building comments during the review but he had not resolved the issues. After a period of time, the MSD reached out and the owner explained he had a serious family health issues and he needed to postpone the application. After several more months MSD reached out again, and he had since hired a property manager who was able to return some of the comments for the review. It is still incomplete, but Jim notified the property manager that it is illegal to rent until he has his business license.

Dan noted that this is a typical situation where applicants begin the process and don't follow through but continue renting. Cameron Platt supported that we should pursue enforcement on pending applications that rent because we've already extended the grace period more than once and it's been quite a while. In addition to the newly adopted town ordinance on STRs, there are state and county laws preventing a business from operating without a license. It was agreed that enough warnings have been given and direction to the MSD is to enforce anyone renting without a current business license, regardless of a pending application. It was recommended for Cameron to look at this case to see if we can enforce this incident. The town can fill out a violation notice and give it to the MSD to send out.

Cameron identified Title 12 in the code as the section that lays out enforcement and appeals. The fee schedule is set at \$650/day for operating without a license, \$650/day for renting less than 2 nights, and \$650 for holding a special event.

Jenna Malone echoed that attention should be given to enforcement before we discuss setting a cap on number of permits. Most of our rentals are not primary residences so it would not be reasonable to require only STRs at primary residences. She would be interested in discussing a cap on the number of nights that can be rented to encourage owners to still use their properties and have a presence in the community.

Barbara mentioned the Mill D north complaint. It was clarified that the owner was allowing a potential buyer to stay on the property but not as a rental.

For typical complaints, Kara recommended the Granicus hotline because there is an opportunity to speak to a live person 24-7 and to follow the issue until resolution. The caller can indicate if they want to receive a call back. They can also choose to remain anonymous.

Immediately upon a complaint, the hotline sends an email that goes to the town, and the MSD. The MSD copies all complaints into their problem reporter system. Kara will add UPD emails for these notices.

Penalties for renting without a finalized permit

There had been a disconnect between the Town Council and the MSD's code enforcement team about whether to enforce short term rental activity on properties that had a pending business license and land use permit. There was an initial grace period that was eventually extended to allow current rental properties to come into compliance with proper licensing and permitting. It was clarified that the intention of the Town Council is to prohibit renting without a finalized permit. Applications can sit in the system for months due to many reasons, but having to wait to rent would incentivize owners to complete their applications with more urgency. Cameron Platt explained that the system could be organized to allow a conditional use permit to be issued while waiting on a minor hold up for the finalized permit. All of the pending applications in the system are awaiting land use approval rather than the business license side. A few months ago, the Town Council adopted an expiration date of 6 months on all land use applications. It was clarified that this applies to STR permits that were initiated prior to the expiration coming into effect. The fine for renting without a permit is \$650 per day. State statute prohibits enforcement for listing or advertising a short term rental. There must be evidence that a property is being rented such as guest reviews proving a rental exchange. Dan Knopp commented that ULCT are meeting with the legislature too look at the law preventing enforcement from a listing. Sally Anderson from MSD code enforcement sent out letters last

week to all pending applications letting them know they can not rent until their permit is finalized.

Discussion on density by neighborhood

This item was tabled until the current ordinance can be more thoroughly enforced. Carolyn Keigley mentioned that density needs to be discussed because if there are no limitations and the STR numbers continue to grow, we will lose our sense of community and neighbors helping one another. Dan Knopp confirmed that something will be done about density. Investment property prices can price out single families making it harder for people to be full time residents. If something is not done to set limits then short-term rentals could make up to 90% of our community even if it takes twenty years.

Discussion on business license moratorium

This item was tabled until the current ordinance can be more thoroughly enforced.

PUBLIC INPUT

VERBAL INPUT:

- 1) Wendy Smith from Silver Lake Estates commented. She appreciates the attention and focus on this issue and agrees that focusing on enforcement before density is critical. She shares Chad and Jenna's concerns about density and that it will take a way community, as Carolyn mentioned. It is making those properties investment properties. We want to encourage renting to be with first and second home ownership. If a fine is issued, you need to shut them down if it is not paid. Density brings a can of worms when it comes to enforcement. Fewer rules but strict enforcement. You don't have to catch everyone but when you do catch someone the fine needs to be stiff.
- 2) Ulrich Brunhart recognized it's a difficult problem to figure out. He shares Carolyn's concern of preserving the fabric of the community. He has 4 short term rentals in his vicinity. There have been problems with blocked roads and noise. For the most part it is not intrusive. He thinks it should be limited by the number of days per year to maintain the community and why we live here. The Planning Commission have not officially met on the STR topic but they have had one on one conversations about whether a moratorium would be a good idea. Since the council is talking about doing something to limit density of short-term rentals then people interested in investment properties as short term rentals will make sure they go through the steps to be grandfathered in with a permit. Carolyn added that towns throughout the state are putting limits on density because investors are purchasing 10 to 20 houses. In South Lake Tahoe there is only allowance for one property per family to be a short-term rental.

CHAT BOX COMMENTS:

00:23:43 Ben Bennett: That is me (I live up there full time part of the year) and care about the place deeply. Well said Soroush and Chad.

00:24:13 jim: hi yes this is jim nakamura i cannot talk

00:24:21 jim: my mic is not working

00:26:07 Kara John: MSD's list of Business Licenses shows: 158 total

LICENSED STRS

Brighton: 16
Pine Tree: 1
Silver Fork: 10
Solitude: 131
Giles Flat:

00:27:42 Kara John: Pending: 16 total Brighton: 5

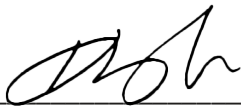
Forest Glen: 1
Pine Tree: 2
Silver Fork: 5
Solitude: 3

00:27:59 jim: so i will check on the george application

00:29:35 Ben Bennett: There are a few updates that could be made to the instructions that will make it faster for people to get through the process.

01:37:19 Chad Smith: Love that rule. One rental per family is a no brainer.

Barbara Cameron moved to adjourn the meeting and Carolyn Keigley seconded it.



Submitted by Kara John, Town Clerk