

ZONING COMMISSION
NOANK FIRE DISTRICT 1
10 WARD AVENUE
NOANK, CT 06340

Approved Minutes of the Special Meeting

Date: Thursday April 8, 2021

Time: 7:00 - 9:00 PM

Consistent with Governor Ned Lamont's directives on the use of remote meeting technology during the coronavirus pandemic, this meeting was held remotely via the "Zoom App." The recording is available at the following link:

<https://www.youtube.com/playlist?list=PLp4s6RQGCh5T9l68DGPVVGpN4hWxQqRqQ>

All meeting documents are available at the following link, and can be accessed from a laptop or desktop computer without a Microsoft user account or password. Use of a mobile phone may require establishing an account.

<https://1drv.ms/u/s!ArWm4wCa4MF1xh2mGAsLtS5hmGnC?e=M2TMzm>

Call to Order 7:00 pm

Commission Members present: Rick Smith (Chair), Beth Steele (Vice Chair), Blake Powell, Art Tanner and Dana Oviatt. Alternate Larry Dunn was present. Alternate Lynne Marshall was present.

The Chairman read the rules for holding remote meetings into the record.

The purposes of the meeting were: 1) consideration of Counsel's comments on short-term rentals and action on proposed STR Management Measures, 2) discuss the process for obtaining public input on STR issue

Chairman Smith remarked that there had been an unusually large number of letters and submissions from the public. They are part of the record; however, because there is not an approved proposal yet, they are irrelevant to the proposal. He advised the Commission that he and the NZC clerk would be sending the submissions in batches to the Commissioners on a weekly basis and that the submissions would be uploaded to the record of correspondence so the public can be given access upon request. Once a proposal is decided and all measures included therein has been decided upon, an informal public meeting date will be set and the public will be invited to comment, verbally or in writing. He felt it was important that boundaries – the start and end of public comment periods – be defined and all comments that come in do so within that period. The letters received, though enlightening, are not yet part of the public comment record

for public input meetings. He advised that the agenda tonight is to look at the various measures that have cropped up and what the Commission feels needs to be ironed out before getting to the point of having a final proposal for public comment.

He reminded the Commissioners that one thing he had distributed as a draft was the potential amendments for “History and Identification of Issue”. He commented that Alternate Marshall had previously mentioned that the Commission should go back and look through those since there had been ten months of development to make sure the measures, goals and purpose statements all tracked well.

Chairman Smith remarked that when he received the Freedom of Information Act request in February of 2021, he was struck that almost every question in the list of questions related to that first page, questioning the basis for the things the Commission said in that page. He feels that now, nearing the end of the drafting stage, it might be worthwhile to revisit it to see if anything is worth revising to better identify the Commission’s concerns and smooth the rough edges of the document itself.

He then asked Alternate Dunn to display the “History and Identification of Issue document with his revisions marked. He explained two areas where he made revisions; one being the time frame from “4 years ago”, to “since 2016”. And another being language changes that sounded less offensive. He asked the Commissioners to read over the revisions, his attempt at trying to find a better way to say things), and said that now was the time to publicly comment on whether they like the changes or if they would like to go paragraph by paragraph or simply leave it as it was originally.

Commissioner Oviatt stated that he didn’t see any problems with the revisions Commissioner Smith had made.

Commissioner Tanner agreed with Commissioner Oviatt.

Chairman Smith asked if any of the Commissioners had any disagreement with going with this revised language..

None were noted so Chairman Smith announced that the Commission would adopt the changes but reminded the Commissioners that nothing was final until it’s actually final.

He stated that the rest of the discussion tonight is the list of items that the Commission still has to reconcile based on the last best draft they have of what a proposal might look like.

Alternate Dunn put up the last draft of the document dated March 29, 202. All confirmed that they could see it well.

Chairman Smith facilitated going quickly through the first couple of pages and explained what they are for people who were viewing the meeting. He advised that the first 1 1/3 pages of the document simply state that the STR Ordinance would be applicable in each of the districts

within the Noank Fire District. For regulatory reasons it has to be stated 7 times to correct the existing regulation.

Section 3 - There were no issues and no changes to Section 3 of the document.
(3.1.9-8.1.12)

Section 9 – Off-Street Parking - Chairman Smith noted that there was one issue that came up and it was suggested that, for clarity, the sentence “Driveways may be included as required space for Short-Term Rental uses” was added. (9.1.15)

Chairman Smith then asked if there was any disagreement with the addition of that sentence.

None were noted so Chairman Smith announced that the Commission would adopt the change.

Section 10 - Signs – No changes made

Section 16 – Fees – No changes made

Section 17 – Short Term Rentals – Chairman Smith didn’t think that there were any definitional changes made after meeting with Counsel Casey, but advised that as they get into further issues, they may want to look into definitions again.

He then expressed that, the following should be stated for the members of the public who haven’t sat in on a Noank Zoning Commission meeting to date: “As a business meeting of the Commission, we’re not taking public comment or questions or anything so the hand-raise icon is not affective. We will announce a date and let everyone know that we can think of who needs to know when we’re ready to receive public comment and will have the meeting. For now, it’s our business meeting to discuss our views, thoughts and ideas and to continue working on this draft to get it in a position where we’re satisfied with going to the public.”

Section 17.2.2 Purposes – One of the purposes that Commissioner Smith felt needed clarity as to the Commission’s intent is item “e”. He reminded the Commissioners that many times it’s been mentioned that the Commission is most interested, as they approach making Short-Term Rentals actually legal in the Noank Fire District instead of what they are now, which is prohibited and unauthorized use, in the thought that they principally wanted to try to provide an opportunity for residents to remain in their home. He felt item (e), which reads “Discourage replacement of permanently-occupied residences or long-term rental properties” should be added onto and should read “Discourage replacement of permanently-occupied residences or long-term rental properties by STRs in order to enhance the prospects for residential properties to remain residential in nature, rather than be converted to lodging accommodations.”

He asked if there was any comment on that.

Alternate Marshall stated that she thinks it’s OK, but would like to see it in writing. She felt it was a long sentence.

Chairman Smith asked Alternate Dunn to turn off “sharing” and Chairman Smith shared his document on the screen.

He then asked Alternate Marshall if she felt it was OK.

Alternate Commissioner Marshall stated that yes, she felt it was OK.

He then asked the Commissioners if they had any objection to the revision of item (e).

He then polled the Commissioners:

Commissioner Tanner: No objection

Commissioner Powell: No objection

Alternate Marshall: No objection

Commissioner Dana Oviatt: No objection

Commissioner Beth Steele: No objection

Alternate Dunn: No objection

He then stated that the change would be made on the next draft.

Chairman Smith asked Commissioner Tanner if he would like to introduce the subject of apartments or if he would like Chairman Smith to do it. Commissioner Tanner said he would prefer it if Chairman Smith introduced the discussion.

Chairman Smith stated that he would offer both views as befits the Chairman. He said he felt there were 2 concerns: 1) that we not lose long-term rental stock in Noank. The concern being that if apartments were to be converted from long-term rental stock to short-term rental stock, we might very well lose that and 2) how we do this matters from a legal sense – how it’s approached in meeting equal protection issues and the kind of reasoning we give to support it has to be iron-clad because it will be one of the issues that upsets some people. When we discussed it with Counsel Casey, he had an alternative way to approach it but we did not want to make our decision in a privileged executive session because we wanted all of our debates to be out in the public.

The two options are: 1) have a provision that defines apartments and then prohibits their use as STRs or 2) simply say that only one unit per property lot can be used for STRs, which is Item (c). The latter was viewed by Counsel Casey as a way that best satisfies the equal protection rationale basis type of things that we have to go through in order to justify what we do.

He stated that the debatable point for the Commission tonight is to decide which one of those two alternatives we’re more comfortable with.

Commissioner Tanner stated that listening to Counsel Casey’s thoughts and suggestions it appeared to him as though Counsel Casey did not understand the role of apartments in providing moderately priced housing in Noank. It seemed to him that Counsel Casey was relying on the section that was put into the regulations a few years ago to prohibit additional multi-family housing being created. Commissioner Tanner noted that there are lots of apartments in his

neighborhood. He stated that in two blocks, there are 10 property lots which contain apartments and they account for somewhere between 15 and 20 apartments. Currently, he believes two of them are operating at STRs but the rest are occupied by year-round and in some cases, long-term residents, some living in them for more than 20 years. He feels they provide affordable housing in Noank that he doesn't believe can be replaced if they're allowed to be converted into STRs. Allowing apartments in each of those 10 property lots that he mentioned, he said, is going to run the risk of changing the character of his neighborhood. He expressed that he is very concerned about turn-over, strangers and so forth to the extent that allowing those conversions would create.

Chairman Smith thanked Commissioner Tanner for his comments and asked if there were any others.

Commissioner Oviatt stated that although he could understand Commissioner Tanner's concerns, he was going to take the opposing view. He stated that he was having a difficult time figuring out how it's fair to prohibit a whole category of Noank owners from renting STRs. Many of these owners live on their own property and he said that he's finding it difficult to justify making it OK for someone who is fortunate enough to own a 2nd home, to be able to rent their 2nd home short-term, but prohibit a person from operating a STR who lives in Noank full-time and who may live full-time on their property. He feels that by prohibiting apartments on a rationale of preserving long-term housing and stock we've strayed a long way from our original intent and purpose of regulating STRs.

Chairman Smith thanked Commissioner Oviatt for his comments and asked if there were any others.

Commissioner Steele stated that she felt Commissioner Oviatt's comments were expressed very eloquently and she adopts his position 100%.

Commissioner Powell stated that he understands and agrees with Commissioner Tanner's concerns but thinks that there are other provisions in the ordinance that address those concerns. He feels that limiting the total number of days that one can do an STR also limits how much of the rental properties or apartments that would be enticed to do an STR versus a long-term rental.

Alternate Marshall commented that other communities have found STRs to be more lucrative than long-term rentals, thereby displacing long-term rentals by STRs. She gave an example of Boulder, CO, who ended up in a housing crisis and no new STRs were allowed to transpire. Her concern is that long-term renters in Noank would be forced out by STRs and that would be to the detriment of the Noank community; however, she perfectly well understands the other arguments. She feels the Commission should be looking at enforcement issues before going further down this road.

Alternate Dunn stated that he agreed more with Commissioner Powell's comments that there were other items in the requirements that would provide a more middle ground stance; such as the one STR per property lot, which he feels is more consistent with what other property owner requirements are.

Commissioner Smith stated that he sees both arguments but feels the solution offered by Counsel Casey makes the most sense to him because it gives everybody one chance to have an STR. He is troubled with prohibiting apartments from doing STRs because it may be allowing the property owner, a Noank resident, to stay in their home. Allowing one use per lot allows them to stay in their home. He feels as though a six-apartment home in Noank being allowed to do six STRs would create a problem. Under the language that Counsel Casey had proposed, one of the six units could be a STR and the other five would have to be long-term rentals.

Action: Motion to adopt language that supports only one (1) STR dwelling per property lot (Smith/Powell)

Chairman Smith asked if there was debate on the motion.

Commissioner Tanner said that he feels some of the comments made by the other Commissioners seem to belittle the idea that losing 10 of the 15-20 apartments in two blocks was no big deal. He felt they were either not paying attention or being willfully blind of the consequences of going down this path.

Chairman Smith asked that, even though frustrated, Commissioners try to maintain a certain decorum and not to impugn the motives of other Commissioner's views.

Alternate Marshall feels the wording will need to be changed because she feels there is already illegal use of apartments and STRs because they're not legal two-family dwellings and the lot size prohibits them becoming one. She feels the second sentence in Section 17.2.4, item (c), "The use of any accessory structure as an STR unit, which structure is not otherwise authorized for use as a dwelling in the Noank Fire District, is prohibited". She stated that apartments, also unless otherwise authorized, are prohibited in all zones so it would have to be already authorized of grand-fathered in before the zoning regulations were set.

Chairman Smith expressed that it seemed to him as though Alternate Marshall's statements were a worthy complaint for the zoning officer but that they don't have anything to do with the motion itself. He stated that the motion expresses the Commission's intent. He then asked if there were any other comments on the motion.

Alternate Marshall said she felt it should be given to Counsel Casey to rewrite it.

Chairman Smith said yes, that would happen and he asked Alternate Marshall to write down clearly what her concerns are and he will be able to capture it.

Alternate Marshall stated that she feels what is written is problematic and it needs to be cleaned up.

Chairman Smith reiterated that it would happen.

He then asked if there were any other comments by Commissioners or if they were ready to vote.

No other comments were noted.

Action: Motion there will only be one (1) STR unit per property lot

Chairman Smith polled the Commissioners:

Commissioner Steele: Yes

Commissioner Powell: Yes

Commissioner Tanner: No

Commissioner Oviatt: Yes

Commissioner Smith: Yes

Motion passed 4:1

Chairman Smith confirmed that the Commission will proceed accordingly and redraft to account for the motion.

Section 17.2.4, Item (o): STR Maximum Occupancy

Chairman Smith stated that Counsel Casey gave two options: 1) the ordinance originally stated two (2) adults per bedroom, with a maximum of eight (8) adults per dwelling unit and 2), which is Counsel Casey's recommendation, being two (2) people per bedroom plus three (3) people, calculated based on the total number of bedrooms offered for STR use.

Chairman Smith asked which option the Commission prefers.

Commissioner Smith said he has no preference and feels that both options were very similar.

Alternate Marshall stated that she preferred Counsel Casey's recommendation of option #2.

Chairman Smith asked if there was any disagreement with it.

None being noted, he stated that the Commission will adopt option #2.

Section 17.2.5 (c) – Application Materials

Chairman Smith stated that the original document stated that an STR operator shall provide the following material and information to the Zoning Enforcement Officer not less than thirty (30) days prior to the start of STR use and occupancy". Counsel Casey recommended removing the 30-day requirement because it's the obligation of the applicant to present their materials in a sufficient time for the Zoning Officer to review it and make sure all that's required is in there.

He asked if the Commissioners had any disagreement with that change.

None were noted.

Chairman Smith shared his discontent with the use of a private residential property being used as a non-hosted STR. He feels it can be viewed as “lodging accommodations”, like a hotel, a commercialization of a residential property as opposed to somebody who rents for one month or six months, which is considered residential. He said he feels it’s two different ways of looking at short-term renting. He’s troubled any time the Commission changes something which might promote the further commercialization of a residential zone, which is the purpose for zoning. The purpose of zoning is to keep commercial uses in commercial zones and to preserve residential zones for residential purposes. He is not prepared to offer something at this point to change but following public comment, he will reserve judgment to make an informed choice of what he thinks is the best thing for Noank. If he does, he’ll offer it as a motion at a later time and it can be debated.

He then asked if there were any comments.

None were noted.

He then asked if anyone else had anything else for amendment, discussion, change, etc.

None were noted.

Chairman Smith proceeded to introduce Alternate Dunn’s and Alternate Marshall’s report on their research into monitoring companies for STRs: what they do and what they can handle.

Alternate Dunn stated that he would be giving a status report on preliminary work done on compliance vendors. He gave background: With the surge of STRs, there’s a number of companies that specialize only in doing STR ordinance compliance managing. He said that he and Alternate Marshall worked with two of the leading companies that currently support over 400 municipalities across the US and Canada. Once the Commission has concluded its deliberations on the specifics for Noank, he said they could provide a comparison about where Noank stacks up against the norm that’s out there in the country. He reported further that both companies indicated they are able to handle the kinds of measures that we have been discussing. He said that they did a free review of Noank and they researched across 60 websites that provide marketing for STRs and based upon their data, there are now 46 properties in Noank doing STRs, with about one new STR per month being added to the roster. He stated that more specifics can be provided at a later date when the Commission gets to discussing details of what actually is going to be proposed.

Commissioner Oviatt stated that he doesn’t understand what compliance management means in the specific instance of where we’re going with this. He asked what happens with the monitoring data the company collects. How much is passed over to us? He’s not sure how all of it might work and thinks the Commission needs to determine how it’s going to work because it may change the way in which we design this regulation.

Alternate Dunn responded that Commissioner Oviatt’s concerns were fair and stated that the companies do runs twice weekly using big data platforms and they’ve crafted what they refer to as “artificial intelligence”, sophisticated algorithms. He reports there are 80-90 different

parameters they search on. They also have access to public records that can quantify and verify other aspects of a specific property. They do have reports tailored to specific municipalities also.

Chairman Smith spoke up saying that he felt this discussion was premature and doesn't know what will even be proposed yet. He feels we need to get a little further down the road before starting to talk about details about how things are doing to get done. He said he was perplexed by why we're pursuing it anyway. He felt the Commission needs to decide what the measures will be then get them out to the public to see what they think, then decide what we're going to propose and then we can be looking at how we enforce and monitor things. He felt the Commission needed to take the advice they were given and reiterated that this discussion was premature.

Alternate Marshall stated that she felt that continuing to go down the path of deciding "what we would ideally like to do, seeing what we can legally do" without knowing what we can really enforce and enforce well is an issue.

Chairman Smith asked Alternate Dunn if the two companies he worked with indicated that the kinds of things we're discussing are things they can handle in a monitoring sense.

Alternate Dunn said yes. He agrees with Chairman Smith that we can't do a final pass until we get to the end but we know enough now that he doesn't see any hurdles. He indicated that all of the specifics on data can be defined later once we agree upon what the specific ordinance would be.

Alternate Marshall noted that the companies were excellent at seeing how many rentals are taking place and their locations. She feels they are a good screening device.

Commissioner Oviatt clarified the nature of his question. He wants to know what information they are going to give us so that we can enforce. He doesn't need an answer now, he wanted to clarify his concern.

Alternate Dunn confirmed that those questions and concerns will be able to be answered.

Chairman Smith asked if there were any other questions related to Alternate Dunn's report.

None were noted.

Chairman Smith commented that it seems the Commission has decided on everything they think ought to be in the document, the wording and the measures. He said there was some re-drafting he would have to do and get out as a preliminary draft to be consistent with the FOIA exemption and then at the next meeting, which is April 20, 2021, there will be a final draft that they'll see as a preview again, a FOIA exempt draft, and then a vote can take place on the 20th for that to be the basis of a public informal public input meeting.

He asked if there was any disagreement with that statement.

None were noted.

Chairman Smith moved on to the next item on the agenda: Process for Obtaining Public Input. He gave the following recap: We had agreed earlier that we would do an informal public session, hear the public and then we make our final decision of what goes in the formal proposal. The Commission, being the applicant, has very specific needs concerning justification for what is being proposed. He said he wanted to make sure that everybody is comfortable with having that informal public process whenever it is we assign a date.

All indicated in the positive.

Chairman Smith gave his proposal for how he feels the Commission should handle this agenda item: at the meeting on the 20th, the Commission would decide on the final proposal for informal comment and at that time, discuss a schedule and decide if there's anything they think they ought to change before starting the formal process.

He then asked for comments.

None were noted.

Alternate Marshall noted that on the "History and Identification of Issue" page, the number of STRs that have been identified should be updated from 24 to 46 in the Noank Fire District.

Commissioner Tanner asked Alternate Dunn to what extent he has confidence that the number 46 is actually STRs that are located within the Noank Fire District.

Alternate Dunn said that he queried the companies on the mechanisms they use to identify a location. He said it is based on GIS mapping. The companies claim 95% to 98% accuracy of their data.

Commissioner Oviatt said that the original number of STRs in the draft document, 26, was based upon the counting that he did 1 ½ years ago and using the exact same counting method 2 weeks ago, he counted 27. He used Airbnb and VRBO websites. He was astounded to hear there are 46.

Alternate Marshall asked how many were located in Noank village. She knew of 7 or 8.

Chairman Smith reminded Commissioners that numbers had to be fact-checked and they must be working with accurate numbers.

Alternate Commissioner Marshall agreed.

Chairman Smith asked if there were any other questions or comments for discussion from the agenda.

None were noted.

Commissioner Oviatt asked Chairman Smith if they were going to discuss at a future meeting or if Chairman Smith was open to suggestions about how the meeting will be run and what the format might be.

Chairman Smith said that in earlier discussions, we've talked about a number of ways of doing it. He thinks they've more or less settled on a format that looks more or less like a formal public hearing would. The Commission would make a presentation. He noted that following advice received, the best way to go about it is to wait for a public meeting and then answer principal questions so everybody can hear them at the same time and its part of the public record, rather than answering questions as they come up piecemeal. The first meeting, we're going to want to answer half a dozen or so of the fundamental questions that people are asking, then it's a question of the best way to get public comment. He prefers the "1 in favor; 1 again" method but said there are other ways to manage it also. He mentioned the "all for/all against method, the prior sign-in method, etc. but said he is open to suggestions. He said that in the past, it's been done where there's a presentation made by the applicant and then speakers are given a certain time period in which to speak, decided upon by the Commission and dependent upon how many people want to speak. Also, they will have to decided how many nights will be needed, which will also depend on how many speakers there will be.

Commissioner Oviatt said his first concern is the list of people who will be informed. He noted that the list that is currently used has approximately 300 people on it. He stated that's about half of Noank. He feels the more people who are involved the better.

His second concern is that the proposal be available in a format that is easily accessible for download and printing, such as Microsoft Word.

Thirdly, in terms of people participating, he suggested that each speaker submit an email with a proposed edit to a particular section; one edit per section per email, in order to get specifics rather than generalities in terms of the complaints and only those who submit emails can participate.

Chairman Smith recalled Counsel Casey advising that if a resident or property owner of Noank wants to speak, the Commission needs to provide the opportunity for them to speak without placing the filter of having to send an email. He said he would confirm with Counsel his recollection.

Commissioner Oviatt stated that he is trying to get at a way to make sure the speakers are highly specific to the section to which they're referring and highly specific as to the changes they would make.

Commissioner Smith agrees with Commissioner Oviatt's motive, which is getting detailed comments on what the speaker would change.

Chairman Smith asked if there were any other comments.

None were noted.

8:21 pm Action: Motion to Adjourn (Steele/Oviatt) 5:0

Action: Motion (Oviatt/Steele) – Adjournment
Approved 5:0
Adjournment: Meeting adjourned at 8:51 pm

Recorded by: Susan Weber, Clerk