



CITY OF SUNRISE BEACH VILLAGE

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Last week, on July 14, a Town Hall meeting was held. First on the agenda was a discussion regarding financing options for our necessary water systems improvements, which are required to bring us into compliance with the Texas Commission on Environmental Quality. Discussion ensued regarding the relative impacts of a rate increase, a property tax increase, or some combination of the two. We are continuing to explore financing options, including loans, a bond election, and grants. We also were presented with an approximately \$250,000 contract addendum from our engineering firm. After careful review and many questions from our Water Committee, it was determined that, although scope creep was not anticipated, these revisions were justified. In the short term, we intend to raise water rates a flat \$10 per month and make up the rest from reserves. This does not address the capital project which will bring our water system into compliance but will allow us to move forward into the construction phase late next year.

The second topic discussed was by far the most contentious, that of short-term rentals (STR's). To recap, we have an existing ordinance, 347.3, that effectively bans any rentals under 30 days. We have been largely ineffective at enforcing this rule, as our current City Municipal Court Judge states that it unconstitutional. To be clear, there is no state law that prohibits municipalities from enacting or enforcing a ban on STR's. Please see an excerpt from a Texas Municipal League Q&A on the subject:

Q Can a city ban STRs completely?

A Probably not. Although no court has struck down a total ban on STRs in the city limits, the judicial reasoning striking down other STR ordinances indicates that total bans are probably also impermissible. See, e.g., Zataari, 615 S.W.3d 172 (holding that a retroactive city ordinance provision banning STRs that are not owner-occupied is an unconstitutional infringement on a settled property right); Hignell-Stark, 46 F.4th 317 (holding that an ordinance limiting STR licenses to residents of the city unconstitutionally discriminated against interstate commerce); and Grapevine, 651 S.W.3d 317 (holding that a property owner has a fundamental and vested right to lease his property)

Interestingly, the Grapevine case was brought up, as the litigation was cited as an example of when a city prevailed last March and was allowed to enforce their STR ban – **after 7 years in court**. The judge that sided with the city was at the county level, which after seven years of ongoing litigation might very well end up in an appeal, further prolonging the legal battle. During this time, STR's could and probably did continue to operate.

Another issue that was discussed was the fact that our existing Municipal Court Judge would not enforce our ordinance. To be clear, having another judge who would allow us to write tickets and impose fines for violations of our existing ordinance is certainly possible. It is equally possible that whoever received the ticket could contest it, resulting in a lawsuit against the City. Fear should never drive decision making, but as stated at the Town Hall, one of my responsibilities is risk mitigation for the City. Please see the note above regarding the City of Grapevine's seven-year (so far) litigation history with one contested case.

Since the meeting, I have had discussions with several attorneys and other interested parties, who all



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have come down stridently on either side. I have no doubt that each of these opinions are well researched and thought out.

Please know that no one at City Hall has any desire to see STR's in Sunrise Beach. What we want is to have a legally enforceable rule and avoid years of costly litigation. I heard loud and clear that many, if not a majority, of the SRB citizens do not want STR's. To that end, I have asked TML for a constitutional review of our ordinance. Any new ordinance regulating STR's would require a public hearing and would also require our Planning and Zoning Commission drafting of a new ordinance.

Once again, the Council and I are here to represent you, the citizens of Sunrise Beach. We are also here to protect the City's assets and minimize our risk.

Our choices are clear: we keep our existing ordinance, allowing those STR's existing currently in SRB (and future STR's) to continue unregulated and untaxed, in other words do nothing, and wait while we find a way to make our existing ordinance enforceable, or we take action and create regulations that allow us to tightly control STR's.

More to come!