

Date: October 2, 2024

RE: Open Government Task Force 10/3/24 Meeting, Agenda # 7.1


From: Eric Fraser, Truth in Tourism, truthintourism@gmail.com

Dear Board Chair and Members;

Thank you for the opportunity to share our insights and stories about engaging with the City regarding open government. Some say that I am a recognized civic watchdog, but I firmly believe that everybody should have a right to understand government decision making.

It is true, as pointed out by the Press Democrat article (inset attached), that I am motivated by researching Santa Rosa's "War on STRs". To me, the War is emblematic of our City's failure to protect people's constitutional rights and govern with truth and justice as guiding principles. By helping people learn from the City's failures we will be able to correct defective legislation and restore rights, as well as create a government that is responsive to the constitution and City charter.

One of the defects in the STR (short-term rental) Urgency Ordinance of 2021 was the organization of secret "Task Force" months before the framework for the STR Urgency Ordinance came to the Council directly for the first (and last) public hearing. To learn from public documents and interviews that there was no urgency to propel the "urgency" ordinance highlights that one of the first casualties in war is truth. Page 2 of Attachment One mentions the "VIBE Committee" – what is that and why are there no public meeting agendas or records?

This is a question of urgent concern. When the Press Democrat reported that one of our NextRequest submissions had over 2,400 responsive emails attached to it (541 days from the request date – which the PD didn't report), we knew that the City and PD were conspiring to diminish our rights. Indeed, we found no evidence that the PD would have known our name as the requester had there not been secret communication between the City and the PD. (See Exhibit 1). Is the "VIBE Committee" custodians of the backchannel indicated in our research?

Even though the City claims that they are committed to the needs of seniors, reading impaired and other disabilities, they refuse to make responsive documents (especially email messages) available in pdf format on the Nextrequest platform. Converting responsive documents into pdfs is easily performed by Nextrequest, but the City has embargoed that functionality. Why?

Being able to send researchers and investigators directly to Nextrequest to review responsive documents is essential to our work. Our research is now feeding an international network, so the accessibility to source (responsive) government documents showing the "people's work" on STR regulations globally is the definition of transparency.

Our information also shows the defects in CIRO's approaches to Community Surveys. Responsive documents from our PRA 17-065 show that online surveys are not considered statistically valid. We repudiate the concept that online surveys, highlighted in Santa Rosa's War on STRs, have a legal role in policymaking. Clearly, they are instruments of propaganda, to be used more in mind-control strategies. This is further evidence that the City is not interested in transparency as much as it is in protecting secret and/or special interest agendas.

Given the above information, we are concerned that the staff is making additional provisions for appeals for PRA decisions. Why wouldn't State law be enough?

Lastly, we will push for staff reports to include an attestation by the author and/or manager that the information is true, complete, and correct under penalty of law. Source documents should be referenced and verifiable to anybody who seeks them out. This should be included in the definitions of "Data" and "Supporting documents" (§1-10.020).

There is still too much secrecy and bad faith dealing by the City.

Working together we look to create a just society.

Attachments

- Exhibit 1: 10/23/23 Public Comments re NextRequest Contract Extension (13 pages)
- Exhibit 2: 10/30/23 Email to City Manager, Clerk re Nextrequest 21-953 (2 pages)
- Exhibit 3: 10/11/21 Claim Form Highlighting Survey and Urgency Ordinance Defects (6 pages)
- Exhibit 4: 7/1/22 STR Urgency Ordinance Review (9 pages)
- Exhibit 5: 7/1/22 Urgency Ordinances: Commercial Cannabis (2017) vs. STRs (2021) (2 pages)

Exhibit 1:

**10/23/23 Public Comments via email
re NextRequest Contract Extension**

(13 pages)

Agenda Item 12.1 PUBLIC RECORDS ACT MANAGEMENT SOLUTION AGREEMENT AMENDMENT WITH NEXTREQUEST

Dear Mayor, City Council, and the City's media agents;

Thank you for the opportunity to impart my knowledge after successfully using the Nextrequest platform since its adoption by the City of Santa Rosa in 2019. Recently (in the last few days), inaccurate reporting by the Press Democrat / Sonoma Media Investments about our public records requests compels us to correct the record.¹ The feedback from the Press Democrat's brand of yellow journalism has also provided energy, resources, and resolve for us to dig deeper into the issues of government malfeasance, corruption, and abuses. Know that we started out trying to substantiate claims government was making during rulemaking; but as good citizens we're now compelled to follow-through on the inconsistencies we see when trying to verify information by using source documentation.

First, we are thankful that we have Nextrequest as a platform to organize public record requests. Not only does it provide a way to research whether a request need be filed by first checking to see if the information is already accessible, but if a request is filed, a way to dialogue with the government employee to make sure the request is understood and can be efficiently fulfilled. Lastly, since it is a publicly accessible platform, responsive records to our requests and those made by thousands of requesters can be shared with others easily by link. This was important for us so we can share responsive records with the hundreds of others in our network including property owners, researchers, attorneys, investigators and so on, by logging on to <https://cityofsantarosaca.nextrequest.com/>

Because we share documents, and people enjoy accessing source documents directly from the source, there is a concern from reading the Nextrequest contract that records or requests might be removed after a certain amount of time. Since the direct source of information is relied on for research, litigation, policy making, historical records, and more, the removal of records without notice may create hardship and confusion – and liability for the City.

Problem One: Will records or requests be removed in the future?

For those accessing records, the document reader tab usually shows the responsive records in readable view for use in the instant (24/7, adaptive to the user's needs). Links can be clicked through. But .msg files are not accessible. Why? In discussing the problem directly with Nextdoor, we learned that they have the fix for that, but the City must opt-in.

Problem Two: Convert .msg files to accessible documents. Why are some emails converted but others are not?

¹ See Sunday 8/22/23 Press Democrat Cover Story "Investigators or 'stalkers'? When Sonoma County citizen-activists push the boundaries on public access" and the inset "Eric Fraser vs. City of Santa Rosa", https://www.pressdemocrat.com/article/news/investigators-or-stalkers-when-sonoma-county-citizen-activists-push-the/?fbclid=IwAR3JyAEmpJYNu-law1gDL2nygxDZJSrCrW_X4rADJMReddEz1Tn55XQBZc

So why is it that some (most) emails are inaccessible? One case we'll present contains 28 Nextrequests filed on 8/8/21 to collect source documents regarding the (first) Short-term Rental Urgency Ordinance. Claims were being made against STR properties that were inaccurate or made-up. The Press Democrat was publishing these inaccuracies and adding more of their own made-up narratives. We needed to get at source documents to establish a fact-basis for management of prejudice because of regulations and for good neighborhood relations. Since it was an Urgency Ordinance, there were no source documents provided to buttress the claims that were made prior to voting by the City Council. Not only were the claims unsubstantiated, but the Urgency Ordinance process should only be used for addressing fact-based problems, according to California law.

So, using the only staff report (Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al. presentation to the Economic Sub-committee found through the link at Nextrequest 21-941) we filed requests based on the separate pillars upon which City staff were constructing the Urgency Ordinance, see attached 8/8/2021 Nextrequests RE STR Urgency Ordinance.

The Press Democrat article text box "Eric Fraser vs. City of Santa Rosa" claims that 2,776 responsive documents were provided, so we'll be able to correct the record on that also. It is interesting that the Press Democrat knew that I was the person who made these requests, since name and contact information of requesters is only obtainable by records requests according to the Nextrequest User Agreement. However, this information is for the use of the staff member and requester agrees that it is public record (one can also submit a request confidentially). Anyway, it appears that the Press Democrat would need to file a request. Did they? We searched Nextrequest for "Press Democrat" and honed-in on 2023 where we saw 6 requests from PD reporters, but none about requesting public documents overall. To do their jobs adequately, we would expect to see hundreds of requests each year from them. See Press Democrat 2023 Nextrequest Search, attached.

Problems Three and Four: Is the Press Democrat and other parties able to skirt around the Nextrequest platform for their public records requests?

Why wouldn't all responsive documents be publicly available?

Problems Five, Six, Seven, and Eight:

Does the Press Democrat or others have unfettered access to public documents without using CPRA?

Do they "catch and kill"² information that is derogatory to their or their clients' interests?

Do they co-ordinate information with City staff and elected officials (propaganda) to achieve policy objectives?

² https://en.wikipedia.org/wiki/Catch_and_kill

Is the Press Democrat paid by government or clients to “catch and kill” derogatory information, or co-ordinate disinformation?

Reviewing our 28 Nextrequests from 8/8/21 (8/8/2021 Nextrequests RE STR Urgency Ordinance), we can share this analysis:

- 28 requests, but only 17 with responsive records.
- The other 11 requests provided no source documentation or facts to support the essential reasons provided by the City for the Urgency Ordinance.
- The 17 requests produced 119 responsive records within 90 days (70 accessible records, and 49 inaccessible .msg files)
- Links to responsive records were used on thousands of emails, analysis, and reports with future publications certain.
- On 1/31/23, 541 days after our original request, 2,774 inaccessible .msg files were added to Nextrequest # 21-953. (We look forward to reading them!) This was a bone of contention for the PD – why? Shouldn’t they be reporting on this abuse of process by the City? After all, the information was to be used in conjunction with an Urgency Ordinance constructed 16 months before, and the City provided little opportunity to guide them in efficiently responding prior to this massive document drop.

Problem 9: What assistance does Nextrequest, or the City provide to researchers who stumble upon examples of government malfeasance, conspiracy, corruption?

Reviewing the 2023 Nextrequests using search “Press Democrat” (Press Democrat 2023 Nextrequest Search), we can share this analysis:

- 6 requests, 4 with responsive records.
- 1 request with responsive records had those records obscured from public viewing (23-290).
- 1 request had 106 inaccessible .msg files (23-195).
- 1 request linked responsive records from SRFD (23-580).
- 2 requests provided information and feedback, but with no responsive records attached.
- No requests related to “record requests” overall.

Because we use our real name, and in outreach with the public use an accessible email address, it’s no surprise that others contact us to share source documents based on their subjects of interest. Most everybody would agree that additional training and information about how Nextrequest, CPRA, city processes and departments work and how citizens can engage resources is needed and essential. The City’s Community Advisory Board and the Office of Community Engagement have been promising these materials and videos for years, maybe decades. It looks like we must take ownership over this problem and produce these materials ourselves.

Problem 10: Does Nextrequest provide training materials to assist requesters in using Nextrequest or to help government clients fulfill their mission of providing access and transparency to their constituents?

In closing, we hope to create an environment where transparency in governmental affairs will provide an even playing field for people to pursue quality-of-life goals based on justice and fact-based rules. There should be no tolerance for corruption in government, and elected leaders must realize that their top priority is one of oversight for the common good.

Thank you Clerk Daisy Gomez for introducing Nextrequest into the City's toolbox.

Looking forward to being of service,

Eric Fraser/c/

Eric Fraser

truthintourism@gmail.com

cc: Attorney's file



WEEKLY DAY PAPER
Stories, perspectives
from the local LGBTQ
community

SUNDAY



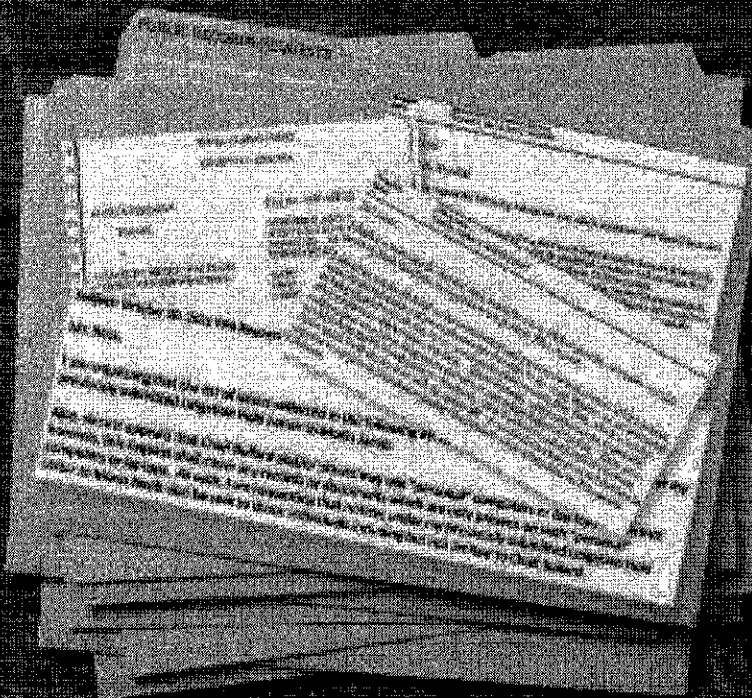
INSIDE TODAY'S PAPER
• Local's Guide to the
best new places to dine
• Keep your brain sharp
with puzzles and games

The Press Democrat

SUNDAY, OCTOBER 22, 2017 • SONOMA COUNTY, CALIFORNIA • PRESSDEMOCRAT.COM

The cost of accountability

Sonoma County citizen activists push the limits of public access



Records requests put strain on public-sector time, money

By JEFF MORGAN
And ALICIA MORGAN

On Jan. 20, 2017, Adam Flores sent a request to the County of Sonoma under the California Public Records Act, asking to see all emails and text messages between Dr. Sarah M. Mose, then the county's health officer, and Dr. Carlos Philip, who was a deputy director for anti-infectious diseases with the Centers for Disease Control and Prevention.



Adam Flores, a citizen activist, speaks at a public hearing about the cost of accountability. He is one of the many who are pushing for more transparency in government.

ON JAN. 20, 2017, ADAM FLORES



A map of the Middle East, showing the location of Gaza and Egypt.

Aid starts to trickle into Gaza via Egypt

BORDER OPENS • FLIGHT ARRIVES • FIRST HEALTH CARE SYSTEM SAVING COLLAPSE

By JAMES HANCOCK
BARRY AND KATHY HANCOCK
HONOLULU, HAWAII

GAZA, Jan. 20 — The border crossing between Egypt and Gaza opened Tuesday to let a trickle of desperately needed aid from the landlocked Palestinian territory. The first plane landed Tuesday at the Rafah airport, bringing relief supplies and medical aid. The crossing had been closed for months, leaving Gaza's population of 2 million people in a state of near-starvation. The aid is expected to help the population survive the winter months.

THE PRESS DEMOCRAT



NEW SOUTH WELLS
MIGRANT CROSSERS
A group of migrants, including men, women and children, are seen crossing the border between New South Wales and Victoria.

ERIC FRASER VS. CITY OF SANTA ROSA

The Issues Eric Fraser, who is semi-retired from a career he said included work as a civil rights researcher, owns a property in Santa Rosa that hosts a short-term rental unit. That role led him to question where Santa Rosa's rental and transient occupancy tax assessments were going.

He wound up advocating for others in his Greater Cherry neighborhood, he said, unearthing records on their behalf, on issues ranging from public art to sidewalk repair. But Fraser's records requests mostly focus on short-term rentals.

"We're getting funding to launch a research center, to study what we consider Santa Rosa's war on short-term rentals," he said. "When people engage in sort of fact-less policymaking, what can you call it other than a war?"

The fallout: Between April 2019 and late August 2023, Fraser filed 142 Public Records Act requests with the City of Santa Rosa.

On a single day — March 7, 2022 — he spent 48

separate PRA requests to the city, asking for a battery of information relating to Neighbor Notifications for 48 different addresses in Santa Rosa. Some of his requests have been fairly sweeping.

On Aug. 8, 2021, for example, Fraser asked to receive all contracts, receipts, emails and letters regarding the city's relationship with the nonprofit Generation Housing, and similar documents pertaining to the Santa Rosa Metro Chamber and short-term rentals. The city wound up sending him 2,776 separate documents.

Another request, this one filed July 10, 2019, and relating to the Santa Rosa Tourism Business Improvement Area Board and the Hen Room Expo, turned up 479 documents.

Fraser denies the stakes are personal.

"I disagree completely with the idea that there's some sort of disagreement, running feud, anything like that," he said.

Request Date	Date Responsive Docs added	Nextrequest	Emails attached/format	Subject	Notes
1/10/23	No responsive documents, but instructions in the timeline.	<u>23-33</u>	None	David Pelaez-Chavez	
2/7/23	4 .pdfs uploaded 2/7/23	<u>23-115</u>	None	Palms Inn	
3/1/23	106 inaccessible .msg files uploaded 3/14/23	<u>23-195</u>	106 inaccessible .msg files	Natalie Roger's remarks about Racial Mistreatment	
3/23/23	3 .pdf released to requester, but not accessible to the public	<u>23-290</u>	Not sure	Palms Inn	
6/8/23	3 .pdf posted 6/22/23	<u>23-580</u>	None	400 Administration Dr.	
9/14/23	No responsive documents	<u>23-971</u>	None	Sam Jones Hall	Seems to have received the documents through other channels as the request was "withdrawn".

Request Date	Date Responsive Docs added	Nextrequest	Emails attached/format	Subject	Source Doc	Request	Notes
8/8/21	No responsive Documents	<u>21-927</u>	no	Ordinance establishing short term guest	Staff Report, Hartman, page 2	1) ordinances defining a short-term tenancy, 2) violations of that ordinances from the past 5 years. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	The ordinance will say something to the effect that anybody who stays for a short term (30 days or less) regardless of whether they paid for the stay, their relationship to the host, or for any other reason are not excluded from TOT.
8/8/21	No responsive Documents	<u>21-928</u>	no	Ordinance that establishes lodging types	Hartman, page 2	1) ordinances that define the various types of lodgings available for short-term stays. 2) List of all lodging types active over the past 5 years identified by last TOT payment remitted. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	What are the different forms of lodging?
8/8/21	One .xlsx added 8/18/21	<u>21-929</u>	no	"Registered" Short-Term Rentals	Hartman, page 3	1) Source for the information. 2) address and APN for all lodging properties, including STRs. 3) First date TOT/BIA return filed. 4) Last date TOT/BIA filed. 5) Contact name, phone. 6) "registration" number. 7) % occupancy per unit per year over past 5 years. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	Hartman makes the claim that SR has 197 "registered" short-term rentals, however SR does not have a "registration system" for STRs. Instead, the data is probably drawn from Finance re: TOT/BIA returns and aggregated over a period of time. We expect to see less than 90 STRs actively operating from within SR. "Active" is meant to mean having filed TOT/BIA within the last 365 days.
8/8/21	Duplicate 21-929 single .xlsx added 8/18/21	<u>21-930</u>	no	Revenue (TOT/BIA) from STRs	Hartman, page 4	1) Source for the information. 2) quarterly TOT/BIA revenue figures for 2015-present 3) number of properties by type paying TOT/BIA per quarter. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	Inaccurate to say that revenue was from 197 STRs, since many were not or are not accepting guests.

8/8/21	No responsive Documents	<u>21-931</u>	no	Revenue (TOT/BIA) from STRs; automated collection thereof	Hartman, page 4	Copies of cooperative agreements to help collect TOT/BIA through the booking process or other administrative process for 1) AirBNB, 2) VRBO, 3) other on-line booking platforms. 4) correspondence including letters, emails, as well as notes of phone conversations regarding cooperative agreements. 5) written processes, procedures, guidance, memorandum and the like regarding the collection of TOT/BIA. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	While the County has agreements in place with Airbnb and VRBO to automate the collection and remittance of TOT/BIA, SR has apparently scrubbed AirBNB and VRBO offers to automate the tax-collection process. (see 17-065)
8/8/21	11 .pdfs added 8/18/21	<u>21-932</u>	no	BIA Governance	Hartman, page 4	1) reports for the past 5 years showing audited financial statements for all aspects of BIA spending. 2) Notes, correspondence and reports about the formation of the BIA since its inception. 3) Notes, correspondence and reports about establishing a BIA on residential units since its inception. 4) Notes, correspondence, reports concerning changes to the BIA since its inception. 5) Policies, procedures, correspondence regarding recruiting and appointing board members to the BIA since its inception. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	The BIA may be improperly applied to lodging in residences. The BIA governance blocks many types of lodging providers (e.g. STRs) from participating in oversight. Research shows a history of financial malfeasance, fraud, lack of oversight within the BIA program.
8/8/21	No responsive Documents	<u>21-933</u>	no	TOT Financial Impact	Hartman, page 4	1) reports and statements showing how TOT revenue has been spent over the past 5 years. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	It is believed that TOT flows into the General Fund
8/8/21	1 .pdf added 8/18/21	<u>21-934</u>	no	STR "web scrape"	Hartman, page 5	1) contracts and reports from organizations providing "web scrape" service over the past 5 years. 2) Exact details about the reported "358 Unique Short-term Rentals" including a) when first detected by the web scrape, b) the type of unit, c) the precise location by address and APN, d) the occupancy rate, e) the source of the information specifically. 3) how the "occupancy rate" was determined for the Hartman report. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	It appears (page 6) that the web scrape was a result of a search for "Wine Country short-term rental", and is anticipated to yield results from outside the City limits. Therefore, these statistics are part of the City's disinformation campaign.

8/8/21	Duplicate from 21-934, 1 .pdf added 8/18/21	<u>21-935</u>	no	Regarding "161 Unregistered Short Term Rentals"	Hartman, page 6	Hartman claims that "161 Unregistered Short-term Rentals" have a "\$225 Median Nightly Rate", and a "76% Average Occupancy Rate (277 nights per year)". 1) the report that supports that information. Hartman claims that "Gross TOT Revenue Recovery ~ \$900,000 and BIA Recovery ~ \$300,000". 2) the report that supports that information. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	Hartman is making this up!
8/8/21	No responsive Documents	<u>21-936</u>	no	"Renter Displacement"	Hartman, page 7	1) Reports, correspondence supporting the claim of renter displacement caused by STRs. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	They have nothing
8/8/21	No responsive Documents	<u>21-937</u>	no	"Super Hosts and Venture Capital Ownership"	Hartman, page 7	1) Written definition of "Super Host" and "Venture Capital Ownership". 2) Number of current Airbnb "Superhosts" (quite different than what Hartman is eluding to with "Super Host") within the 193 "registered" STRs. 3) Number of "Venture Capital" owners within the 193 "registered" STRs. 4) Reports, analysis, correspondence supporting an archetype of ownership called "Venture Capital Ownership". Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	They have nothing
8/8/21	No responsive Documents	<u>21-938</u>	no	"Decrease Available Housing Stock"	Hartman, page 7	1) Reports, analysis, correspondence, notes supporting the premise of "Decrease Available Housing Stock". 2) Reports showing the extent of housing stock in the City including a) number of units, b) number of bedrooms, c) number of vacant units (as determined by US Census), d) number of unoccupied bedrooms each night over the past 5 years. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	They have nothing
8/8/21	No responsive Documents	<u>21-939</u>	no	"Overconcentratio n and Commercialization of Residential Neighborhoods"	Hartman, page 7	1) Definitions for a) "Overconcentration" and b) "Commercialization". 2) Reports supporting the author's claim specific to SR. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	They have nothing
8/8/21	No responsive Documents	<u>21-940</u>	no	"Uneven Playing Field Between Other Lodging Providers and Short-Term Rental Owners"	Hartman, page 7	1) Reports or other writings supporting the author's opinion. 2) correspondence about this issue over the past 5 years. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	They have nothing

8/8/21	Link to Legislar meeting entry for 8/10 Economic Subcommittee meeting posted 8/18/21	<u>21-941</u>	no	"Tension Between Short-Term Rental Owners and Neighbors"	Hartman, page 7	1) Definition of "tension". 2) Reports and correspondence detailing said "tension" over the past 5 years. 3) Reports, correspondence, and other writings about attempts to dissipate said "tension". Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	They are exacerbating conflict for political gain.
8/8/21	5 .xlsx uploaded 8/17 & 8/26/21. One .xlsx was a duplicate from 21-929	<u>21-942</u>	no	"Noise, Trash, and Exterior Lighting"	Hartman, page 7	1) reports and correspondence about "noise, trash, and exterior lighting" lodged against "registered" STRs over the past 5 years. 2) reports and correspondence about "noise, trash, and exterior lighting" lodged against all property owners over the past 5 years. 3) Policy, reports, correspondence regarding abatement procedures for "noise, Trash, and Exterior Lighting" from Police, Code Enforcement, and Fire. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	This information was instrumental in showing that STRs have no track record of noise complaints, and that the City inadequately handles these issues. It shows how all properties should be held to the same standards.
8/8/21	14 .xlsx, 2 duplicate uploaded 8/17, 26, & 27/2021	<u>21-943</u>	no	"Parking"	Hartman, page 7	1) reports and correspondence about "parking" lodged against "registered" STRs over the past 5 years. 2) reports and correspondence about "parking" lodged against all property owners over the past 5 years. 3) Policy, reports, correspondence regarding abatement procedures for "parking" from Police, Code Enforcement, and Fire. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	This information was instrumental in showing that STRs have no track record of parking complaints although assigning a property to a parking problem on a public street is impossible, and that the City inadequately handles these issues. It shows how all vehicles should be held to the same standards.
8/8/21	No responsive Documents	<u>21-944</u>	no	"Events and Party Houses"	Hartman, page 7	1) definition of "party house". 2) number of Party Houses that are "registered" STRs over the past 5 years. 3) number of "party houses" that are not STRs over the past 5 years. 4) Reports, procedures, ordinances regarding "events". 5) reports showing economic impacts provided by STRs during City-approved (and or funded) events over the past 5 years. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	They have nothing

8/8/21	1 duplicate .xlsx file uploaded 9/8/21 and a link to legislator page for all 2021 Community Advisory Board meetings uploaded 9/14/21	<u>21-945</u>	no	"Potentially Difficult to Contact Transient Renters"	Hartman, page 7	1) Definition of "Transient Renter" 2) Reports or correspondence that supports the author's claim that STRs make it "potentially difficult to contact transient renters". 2) Reports showing any situations where law enforcement, fire, or emergency services had difficulty contacting transient renters over the past 5 years. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	They don't understand the relationship between host/manager and guests. They have nothing
8/8/21	1 duplicate .xlsx file uploaded 8/26/21, 48 inaccessible .msg files, and 1 .doc that was also duplicated as a .jpeg on 9/2/21	<u>21-946</u>	contains a .jpeg and .doc of an incomplete email; 48 inaccessible .msg files	"Evacuation Impacts"	Hartman, page 7	1) Reports showing any situations where law enforcement, fire, or emergency services had "evacuation impacts" caused by STRs over the past 5 years. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	The .doc & .jpeg were found also in 17-065. Many inaccessible email in this response.
8/8/21	No responsive Documents	<u>21-947</u>	no	"Limit Outdoor Fires"	Hartman, page 10	1) Reports of fires started by fire pits, BBQs, and other outdoor fires for all residential properties over the past 5 years. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	They have nothing
8/8/21	12 emails presented as .pdfs uploaded 8/23/21	<u>21-948</u>	12 emails converted to .pdfs	"How Bad Can it Get?"	Hartman, page 8	1) Reports and correspondence supporting "during June and July more than 30 complaints were received from 14 neighbors of one short-term rental". 2) Reports showing whether any of the "30 complaints received for June or July" were duplicitous, vexatious, or unfounded. 3) Reports and correspondence about complaints received about STRs over the past 5 years, including the number of duplicate, vexatious, or unfounded complaints. 4) Reports and correspondence about complaints for all properties received over that past 5 years including the number of duplicate, vexatious, or unfounded complaints. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	This is just 12 letters from residents with unverified complaints!
8/8/21	1 .pdf uploaded 8/16/21 and 1 .xlsx uploaded 8/26/21	<u>21-949</u>	no	Temporary Use Permit	Hartman, page 9	1) Number of Temporary Use Permits issued for events at all property types in the past 5 years. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	Nothing to do with STRs
8/8/21	6 .pdf uploaded 8/20/21, 1 .csv uploaded 8/23/21, and 1 .xlsx (duplicate) uploaded 8/26/21	<u>21-950</u>	no	Extend Quiet Hours to Between 9 pm and 8 am	Hartman, page 10	1) Ordinances that define a) levels of noise, b) types of noise by source, c) exclusions and exceptions, d) penalties, and e) appeal process. 2) Number of a) noise complaints filed, b) vexatious, duplicative or otherwise unfounded 3) resolution notes for each complaint over the past 5 years. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	Nothing to do with STRs, but provides an interesting history of noise ordinances for the City.

8/8/21	15 .pdf (incl 2 emails) uploaded 8/18/21	21-951	no, emails were converted to pdfs	"Look to Existing Regulations ... as Guides"	Hartman, page 11	1) Reports and other materials received about other jurisdictions' STR regulations. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	Provides some interesting comparisons to other jurisdictions although the case studies do not apply to the City urgency ordinance.
8/8/21	1 email uploaded as a .pdf 8/18/21	21-952	no, emails were converted to pdfs	Economic Analysis of STRs		1) Reports regarding the economic impacts (positive and negative) for STRs in Santa Rosa. Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	The email was a brief update on BIA collection. No research was performed on STR's impacts in Santa Rosa.
8/8/21	1 .pdf uploaded 8/18/21, 1 inaccessible .msg uploaded 8/25/21, and 2 .774 inaccessible emails uploaded 1/31/23	21-953	2,775 inaccessible .msg files	Politically Active Organizations	Generation Housing Sponsors 032221.pdf	1) contracts, receipts, emails, letters regarding an organization called "Generation Housing" and the City's role as "Catalyzing Member" (see attached) 2) contracts, receipts, emails, letters regarding the "Santa Rosa Metro Chamber" and STRs (e.g. vacation rentals). Source Document Reference: Short Term "Vacation" Rentals, August 10, 2021, Hartman et al.	2,774 .msg files were added 541 days after the original request.1)

Exhibit 2:

**10/30/23 Email to City Manager, Clerk
re Nextrequest 21-953**

(2 pages)



Eric Fraser
<truthintourism@gmail.com>

Nextrequest #21-953

1 message

Eric Fraser <truthintourism@gmail.com> Mon, Oct 30,
2023 at 11:24 AM

To: CMOOffice <CMOOffice@srcity.org>, City Clerk
<CityClerk@srcity.org>

Dear Madams City Manager and City Clerk;

As you are well aware, the City is trying to frame an issue about our use of public records requests.

We need to get to the bottom of a few things, so we can refer the information to the appropriate authorities for resolution.

1) The massive dump of 2,774 "responsive documents" to Nextrequest 21-953 are still not viewable using the platform. Please correct this immediately so that our researchers can view your responsive documents from any location, without the need for further handling or file conversion. There are several other responsive documents that you are hiding under .msg file extensions; please create these as accessible documents too.

Your responsive records to 21-953 were added **541 days** **(on 1/31/23)** after our original request on 8/8/21. While we were in mourning for our pet who was poisoned by a neighbor apparently ginned-up on how the City has framed the STR issues, City staff was busy adding these records and probably also creating their plan with the Press Democrat for attacking me. We anticipate that many of these records are not responsive to our requests, but we still need to review them all.

Note that our requests in 2017 and 2018 (pre-Nextrequest) came with the option to view responsive records in your office at no cost, or to have staff provide at \$.010 per copy once they gave an estimated cost and had that approved by us. Neither of these legal options were offered to us.

2) The public records request from the Press Democrat, if any, for records related to our records requests, and informing the 10/22/23 cover story appears not to be on the Nextrequest platform. Do you want us to file a record request for this information, or will you post their original request if they had one?

Thank you in advance for your quick reply.

Eric Fraser
TRUTH IN TOURISM
707.479-8247

Exhibit 3:

**10/11/21 Claim Form Highlighting Survey and
Urgency Ordinance Defects**

(6 pages)



Walked-In To be date-stamped by City Clerk
@ 9:45 AM
RECEIVED
OCT 11 2021
CITY OF SANTA ROSA
CITY CLERK'S OFFICE

CITY OF SANTA ROSA CLAIM FORM FOR INJURY AND DAMAGE

Claims for death, injury to person or to personal property must be filed no later than six months after the occurrence. All other claims for damages must be filed not later than one year after the occurrence.
(Government Code section 911.2.)

The undersigned hereby presents the following claim against the City of Santa Rosa in accordance with the provisions of Government Code section 910, et seq.

1. **NAME OF CLAIMANT:** TRUTH IN TOURISM **DATE:** 10/11/21

CLAIMANT'S ADDRESS: P.O. Box 1113

CITY: Santa Rosa CA **ZIP:** 95402

PHONE: 707.479-8247

2. **MAILING ADDRESS TO WHICH NOTICES FROM THE CITY ARE TO BE DIRECTED:**

Same

CITY: _____ **ZIP:** _____

3. **DATE OF INCIDENT:** 10/8/21 ongoing **TIME OF INCIDENT:** _____

EXACT LOCATION OF INCIDENT: _____

4. **DESCRIPTION OF THE INCIDENT OR ACCIDENT:**

(Include your reason(s) for believing that the City is liable for your loss(es):

See attached claim 131-21

5. **DESCRIPTION OF ALL INJURIES OR DAMAGES WHICH YOU BELIEVE YOU HAVE INCURRED AS A RESULT OF THE INCIDENT:**

See attached claim 131-21

6. **NAME(S) OF ANY CITY EMPLOYEE(S) CAUSING THE DAMAGES THAT YOU ARE CLAIMING, IF KNOWN:**

To be determined



7. DOLLAR AMOUNT OF ALL DAMAGES YOU ARE CLAIMING (Attach all estimates that are available)

AMOUNT OF DAMAGE OR LOSS: TBD

PROPERTY DAMAGE OR COST OF REPAIR: TBD

MEDICAL BILLS PAST/ESTIMATED FUTURE: TBD

LOSS OF INCOME PAST/FUTURE: TBD

OTHER EXPENSES: TBD

8. IF DOLLAR AMOUNT OF ALL DAMAGES IS GREATER THAN \$10,000, PLEASE INDICATE:

- ☐ Case would be limited (less than \$25,000)
☒ Case would be unlimited (greater than \$25,000)

9. IF CLAIM IS FOR INDEMNITY, ON WHAT DATE WERE YOU SERVED WITH THE UNDERLYING LAWSUIT:

- PRESENTATION OF A FALSE CLAIM WITH AN INTENT TO DEFRAUD IS A FELONY (PENAL CODE SECTION 72).
- CLAIMS ARE SUBJECT TO DISCLOSURE UNDER GOVERNMENT CODE SECTION 6250 ET SEQ. (POWAY UNIFIED SCHOOL DISTRICT V. SUPERIOR COURT) (1998) 62 CAL. APP. 4TH 1496.

SIGNATURE OF CLAIMANT: _____

PRINT NAME: Eric Fraser for TRUTH IN TOURISM DATE: 10/11/21

MEDICARE BENEFICIARY YES _____ NO _____

RETURN COMPLETED FORM TO/OR MAIL FORM TO:

CITY CLERK
CITY OF SANTA ROSA
100 SANTA ROSA AVE, ROOM 10
SANTA ROSA, CA 95404

Claim 131-21 10/8/21 Proposed Urgency Ordinance for Short-Term Rentals, Document page 1 of 14, paragraphs 4-6

The first Urgency Ordinance released to the public 9/24/21 differs from the Urgency Ordinance issued by staff with the City Council Agenda packet for the 10/12/21 City Council Meeting. The 10/12/21 meeting will be the first legal public hearing on the proposed Urgency Ordinance, and where it is also scheduled for vote by the full City Council. The new ordinance document replaces the old document, according to the city, thereby substituting 8 pages for 14 without benefit of indicating edits through red-line or other notations of the numerous changes made.

There are many signs of bad faith dealing by the City including withholding information, discussing the people's business secretly as they have with the "City Staff Task Force", disregarding or purposely scheming to evade legal processes (Planning Commission oversight, CEQA, internal oversight) and presenting an Urgency Ordinance without due process, while making edits to key documents without notation, presenting information that is without factual basis, engaging in hearsay instead of verifiable and legal complaints or other information, and presenting other failings. This unequivocally disqualifies staff's work for an Urgency Ordinance. For those damaged by the city's bad faith dealings, damages include business income loss, reputational loss, and others to be determined.

This section of the 10/8/21 Urgency Ordinance Page 1 (of 14), Paragraphs 4-6 read:

WHEREAS, it has been documented that certain short-term rental activities have resulted in tension between owners/operators and neighbors, particularly in the form of nuisance complaints filed by neighbors related to impacts resulting from excessive occupancy, noise, parking, and in the form of public safety and welfare complaints related to wildfire risks and evacuation routes; and

WHEREAS, public complaints about short-term rental activities have increased in frequency and intensity, and response to complaints has required increased allocation of police, code enforcement, and planning staff resources, without resolution of issues, due to the lack of regulatory framework or funding for enforcement; and

WHEREAS, the ongoing unregulated short-term rental of residential properties presents a current and immediate threat to the public peace, welfare, health, and safety, requiring adoption of this urgency ordinance to implement locally appropriate performance standards to regulate the location and operation of short-term rentals, and unregulated short-term rentals have the potential to be injurious to the rights of neighboring property owners by preventing the peaceful and safe enjoyment of their property; and

Claim A: The city itself has manufactured the tension. Our information shows that the city has invented complaints, met with neighbors of targeted STR properties in Montecito Heights without including the targeted property owners (See 10/12/21 Short Term Rentals Presentation, Agenda Item 15.1 for notation showing 9/22/21 Montecito Heights

Neighborhood Meeting), met in secret for almost a year to scheme about the Urgency Ordinance, and recklessly launched a non-scientific community survey.

Regarding the survey, a responsive document from PRA 17-065 is a proposal from Probolsky Research for public opinion polling about an unrelated matter. From Page 8 (Exhibit 130-21-1):

*Online surveys are **not** considered to be statistically valid by the American Association of Public Opinion Researchers (AAPOR), but they do offer broad opportunity for the public to participate and have their voice heard. (Emphasis added)*

The use of community surveys is unethical when applied to complaint resolution procedures and policymaking because they are ripe for exploitation by both the author as well as a factional audience. They do not provide a just forum to address grievances, deprive the accused of due process, and are usually uncontrolled for participation but leave many unable to participate, do not create any factual basis for public policymaking, and more. In this case the survey is another example of the city's **bad faith** efforts.

Our research from responsive materials provided by the City from Nextrequest 21-942, 943, 944, 945, 946, 947, and 948 includes an analysis of over 24,000 police, fire, and code enforcement records. We found a total of 20 complaints having nexus with an operating STR and guests over the past 5 years. This implicates only 15 properties since 2015, including 3 addresses singled out for enforcement with multiple complaints in 2020/21. Further examination of the three properties subjected to multiple complaints in 2020/21 show a multitude of fictitious (made up by city employees), unfounded, or vexatious complaints from neighbors. Also, with the other 12 properties that had a single complaint over 5 years we found that most of those complaints were unfounded or vexatious.

There was nothing to show a fact pattern that supports a claim of a current and immediate threat. There was a fact pattern showing the city's unscrupulous creation of fictitious complaints, however.

We did find numerous non-STR addresses (owner-occupied, long-term tenant, vacant, other) that indicate histories of multiple complaints over the past 5 years.

The crafting of an Urgency Ordinance must be careful, reasoned, and equitable. The city fails that test.

Claim B: The city rushes an Urgency Ordinance to make complicated long-term policy. Because the city must be careful, reasoned, and equitable it is precluded from using an Urgency Ordinance to force major policy into place unless there was a factual and urgent matter. Even then, the Urgency Ordinance would be limited to addressing the specific current and immediate threat only.

Gov. Code 65858(c)3: "There is no feasible alternative to satisfactorily mitigate or avoid the specific, adverse impact identified pursuant to paragraph (1) as well or better, with a less burdensome or restrictive effect, than the adoption of the proposed interim ordinance." Since the city has been scheming to enact an Urgency Ordinance for months, there was time, there is time, to follow procedures otherwise required for a zoning ordinance and/or updating existing ordinances .

Omissions, deceptions, lies, misrepresentations, and other forms of disinformation do not meet the standards for verifiable facts needed to support an Urgency Ordinance under State Law.

Truth in Tourism is a grass roots community group consisting of tenured economists, legal scholars, STR owners, STR managers, STR guests, Superhosts®, and other subject matter experts focusing on issues related to STRs including regulation and complaint resolution, housing policy, operating standards, economic development, education and more. Our cohorts include people over 65, people covered by ADA, minorities, and other protected classes. (Superhost is a trademark of Airbnb, Inc., registration # 4905789, and is awarded only to hosts who meet the highest standard for guest care.)

Research Enhancements

(Optional)

Online Survey

Online surveys are not considered to be statistically valid by the American Association of Public Opinion Researchers (AAPOR), but they do offer broad opportunity for the public to participate and have their voice heard. We always ensure that results from the online survey are tabulated and reported separately from telephone surveys.

The City would promote the online version of the survey via its website and social media channels to encourage participation.

"In Their Own Words" – Field Focus Groups

Field Focus Groups are conducted by obtaining more than 100 in-person interviews of relevant respondents. This gives us the opportunity to provide, video and audio recorded responses and create a video report that illustrates and contextualizes research results in a way that static reporting on a page cannot.

These in-person, on-camera interviews are conducted in public places where large groups of people gather. Core to this aspect of the research is open-ended questions, capturing verbatim responses that uniquely translate the data.

These Field Focus Groups allow us to derive not only the way people talk about taxes and City services – but capture the specific and unique vernacular they use. Additionally, we can sometimes even capture people in a group setting and see how they discuss water together.

Due to confidentiality concerns, we cannot release footage of most of our client work but you can see a brief, untouched example of this video concept here: <http://youtu.be/9BACC-etozk>

Typically, we produce a highly edited 3 – 5-minute video culled from all the footage we film (we separately provide the full set of raw footage). However, we are always open to suggestions and will gladly produce whatever length production you request based on the available footage.

EXHIBIT 131-21-1
FROM PRA 17-065
7/23/15 – CITY OF SANTA
ROSA PUBLIC OPINION POLLING



Exhibit 4:

7/1/22 STR Urgency Ordinance Review

(9 pages)

Santa Rosa Urgency Ordinance Review

As of 7/1/22, data shows that 4 additional STR applications were received in the month of June, and one additional citation was noted (not sure if it was issued or sent to the accused).

A review of the numbers in five areas: 1) Historical Data, 2) Permit Applications Filed, 3) Estimated Occupancy, 4) Approval Process, and 5) Enforcement.

1) Historical STR use pattern

Approximately 400 different STR property owners had submitted taxes (TOT/SRTBIA) from 2015 to 2021, prior to the Urgency Ordinance (The average number of years filing TOT returns is 3 years per property). Approximately 60% were "non-hosted" properties then. There was some confusion, as some properties submitted taxes through the Cooperative Agreements for tax collection administered by the County for Airbnb and VRBO (taxes collected and remitted by booking platforms). The City did not execute the agreement when offered by AirBNB in 2015. Some addresses were tagged as in-County with City TOT paid to the County, and it's not clear if this has been fully resolved. Our data scientists did pick up on a TOT certification numbering anomaly currently in City Finance records which may be for those accounts. The failure of the City to enter into the Cooperative Agreements cost the City probably in excess of \$500,000 in TOT taxes total since 2015 (7 years), and requires additional analysis. (Note the TOT Ordinance is far-reaching in that the implications are that any resident with a short-term visitor would be subjected to TOT/SRTBIA whether booked online or not. In spite of that, Santa Rosa's War on STRs targets visitors booked online.)

2) Permit applications filed under the STR Urgency Ordinance (first application received into the system 10/21/21:

273 applications filed under the STR Urgency Ordinance:

193 for non-hosted STRS (see below)

66 for hosted STRS (see below)

12 Withdrawn

2 Dups

3) Occupancy Estimates

"Occupancy" refers to a percentage of room nights/year with guests required to pay TOT (short term occupants), so it excludes family uses, vacancies, and guest stays over 30 days. "Estimated Occupancy" will be reviewed on an on-going basis after information to be provided by Finance is analyzed. This also assumes that applications are processed within 30 days of receipt, which has not been the case (see below). This working hypothesis is based on historical data and industry knowledge.

For the 193 non-hosted STRs, Estimated Occupancy is (numbers approximate):

18 @ 0% Occupancy - Application was specifically filed to exclude other properties due to the 1000' proximity rule.
28 @ 0% Occupancy as a non-hosted STR; these are hosted STRs in good standing preserving their rights to operate as a non-hosted STR.
55 @ 1 - 35% Occupancy (below the industry average).
62 @ 36 - 69% Occupancy, reflecting incidental use.
30 @ 70% Occupancy or above

The estimated average occupancy for hosted STRs is 30%.

4) Permit Application Process (273 as of 6/30/22)

0.5% Withdrawn, Duplication, Errata
2% Application Denied
34% Approved, Issued
63.5% Pending, In Plan Review, Routed for Review

The oldest application still "In Process" is from 10/28/21, or for **almost 8 months**. **Most applications are still "in Process" 6 months after submission.** Applications submitted after the "In Good Standing" submission window closed (10/20- 12/3/21) are apparently barred from occupancy until permit is "Issued". **More analysis will be required to calculate the damages to STR applicants from atypical application processing.**

URGENT FOLLOW-UP NEEDED: Approved/Issued is showing abnormalities in that some applications are approved before others, in some cases by **several months**. Some of this might be because applications not yet approved have deficiencies that need to be corrected by the applicant, which could be caused by the lack of communication/education/training designed into your Urgency Ordinance and your War on STRs' strategies. Others are apparently on some sort of "hit list", whereby politicians and staff have formulated extra-judicial strategies to prevent some applications from moving forward (see attached letter from Nextrequest response 22-0365). In addition, city managers should be auditing for corrupt practices whereby insiders may be extracting a fee or favor for expedited approvals.

5) Enforcement

Below, you will read that staff testified to 124 complaints (there has been one more recorded in June) during the Economic Sub-committee meeting. Sounds like a HUGE number, except it is a libel, since 97% are projected to be unfounded, vexatious, or otherwise unenforceable. The process for taking in a public complaint, which was first to be discussed with

the 24-hour contact, has been totally ignored by staff. It's obvious that staff has no framework or oversight when it comes to the procedures used to administer public complaints. Likewise there is no clear guidance for fines, appeals, or training for STR permittees. When contacted, about 90% of property owners indicated that they did not know a citation even existed. Nobody knows how "strikes" are calculated. Demands for fines, and the quoted costs for appeals have been inconsistent, and the larger demands have been against POC in some cases. The 15-page Urgency Ordinance is mostly silent on due-process protections (for instance, no penalties to the complainer for complaints filed that are unfounded or vexatious). Clearly, your War on STRs strategized laying landmines for STR applicants and permittees.

A few complaints (4-6) since September 2021 allege excessive noise, parking, or occupancy. Testimony and evidence by owners and guests refute most of those allegations however.

URGENT FOLLOW-UP NEEDED: We have referred the alleged police and code enforcement abuses to third-party oversight for review. Abuses to civil rights will also be articulated in public submissions to the Housing Element (for which we will also expand with analysis of the positive equity, economic development, and quality-of-life aspects provided by STRs) and to State and Federal agencies.

I have also attached a comparison between two Urgency Ordinances e.g Cannabis and STR. Mayor Rogers on several occasions has referred to the Cannabis Urgency Ordinance as his lodestar when planning the STR Urgency Ordinance, and Santa Rosa's War on STRs. The contrast is striking and really shows the backroom machinations that occurred without input from the STR community in the window of time when Santa Rosa was without a strong City Manager in late 2021. Continuing to this day, it appears that elected officials are meddling in the role of the City Manager as detailed in the City Charter.

Also related, is our research on corruption endemic to Santa Rosa's "tourism industry" juxtaposed within the Council's plea for increased compensation. Hopefully you have allowed yourself at least a cursory glance at this information sent yesterday, since it may play heavily on the success or failure of that ballot question.

To close, here are some recommendations:

- 1) Get real. Call an end to the War on STRs. You will not win.
- 2) Immediately assemble a STR Advisory Committee so the community can be factually informed about policy and procedures, STR enthusiasts are appropriately trained,

knowledge base from the community can inform policy, and the City can stop hemorrhaging money to support a War nobody wants.

3) Try to reverse the damage to civic peace by immediately retracting incorrect information, and pledging to not publish any more propaganda. (Be sure to tell your friends at SMI too.)

4) Hold staff accountable, provide appropriate and legal oversight. Practice competence. Enforce standards.

5) Try to do better.

Looking forward to being of service,

Eric Fraser
TRUTH IN TOURISM
707.479-8247

Sent to network:

We wanted to report out our impressions and follow-up to Santa Rosa's Economic Subcommittee meeting held Tuesday, May 17. We encourage everybody to watch the presentation, discussion, and public comments. Note that any opinions below are those of the author and may not reflect the viewpoints of every STR owner and manager. That's why it is very important to discuss information as we assist our community to find balance, fairness, and harmony.

Watch the recording here: https://youtu.be/T0_KcUhZUPI

Short Term Rental Urgency Ordinance in Santa Rosa: the Good, the Bad, and the Ugly

One takeaway is that the positions (or most likely strategies to further support their ideologies) of council members that are part of the Subcommittee appear to be evolving, because the 15-page Urgency Ordinance's defects are becoming apparent as applications are being processed, and probably because of the legal pressures facing them. Information from STR owners, managers, guests, and supporting businesses and neighbors are all extremely important, so keep sending those emails, public comments, and 1:1 conversations to council members, staff, and police oversight (bcc your network) They said they want to work with "the industry" (even though they crafted the ordinance in bad faith) ... we should be clear that we want a council-recognized STR working group established immediately to include everybody we suggest and others who care to join, as well as immediately dropping the unlawful, unworkable, duplicitous, and overreaching aspects of the Urgency Ordinance.

Council member Sawyer (District 2) appears to understand property rights, even if he doesn't have a handle on the facts. Council member Fleming (District 4) has softened her words and has said that she has changed her position on hosted rentals for instance, however it's clear from her remarks that she is unwilling to change her ideology overall even when facts are provided. Mayor Rogers (District 5) surprised us

with how ideologically driven his opinions and actions are, as we thought he was more practical and centrist (that's probably why he is not returning calls from STR owners in his district). All of them showed amazingly little actual knowledge of Santa Rosa's short term rental ecosystem, even though TOT reports showing address and contact information have been standard practice for decades, and they took 12-18 months to draft the "urgency" ordinance. They seem energized by (mis)information learned at the conferences they attend, like the League of California Cities.

None of the council members appear willing to take responsibility for crafting the defective, legally offensive ordinance. Now, their incompetence has resulted in colossal expense to our city, ginned-up disharmony within the community, and a hostile work environment. They are spending around \$5 for every \$1 in revenue they are creating (not counting legal expense/exposure), although it's difficult to ascertain because staff appear to have different data points and conclusions. Anyway, we estimate that they are on their way to spending over \$1,000,000 this budget year (ends June 2022).

The biggest problem is that staff seem unwilling or unable to present information accurately. What are they trying to accomplish? What are they trying to hide?

It is also important to note that application approval is no deterrent to government overreach, defective enforcement, and the actions of vexatious complainers. Approval may accelerate enforcement actions from staff unrestrained by the law, especially if you are on the PED hit list.

If you want to discuss this, just call, or send us an email.

Looking forward to being of service,

Eric Fraser
TRUTH IN TOURISM
Lead Researcher
707.479-8247

Here are our notes:

Starts 0:04:05 Slide 2 presents 196 non-hosted rentals on a map. Not only are the proximity circles exaggerated, but staff fail to adequately explain the nature of non-hosted rental applications. Many are from traditionally hosted operations looking to preserve their options, others are for property owners who have no intention to rent short-term (to prevent STRs in their proximity), or to rent short term on a limited basis. Staff correlates the speculations of Airdna's data (<https://www.airdna.co/blog/best-places-to-invest-in-us-vacation-rentals-2021-2022> - Santa Rosa #25) with the revenue purportedly generated by STRs (<\$100,000/year). In turn, according to staff, there is increasing demand for non-hosted permits. (Leading to talk of a "moratorium" during the last five minutes of the meeting, but not at this point before public comments.) Clearly,

staff is trying to hype the need for enforcement (or moratorium as we find out later) based on specious information offered in defense of the overreach.

(Update 5/29/22) Our latest data report shows the newest applications are for hosted STR permits, not non-hosted, including several who have been paying TOT from before 2017.

Slide 3 map showing hosted rentals does not take into consideration that several traditionally hosted rentals applied for a non-hosted permit, for a variety of reasons. Also, there are 75 – 100 families who had provided hosted (and non-hosted) accommodations who were active prior to the declaration of the pandemic who were denied “In Good Standing” thereby excluding them from filing for a non-hosted permit if the 1000’ proximity pre-empted their property. The excess permitting fee is also an issue with many previously hosted properties since many did not pay in TOT for an entire year an amount equal to the onerous permit application fee.

It’s also worth noting that short term accommodations happen in other districts with as much or more frequency (# of addresses where a short-term accommodation occurs within a year) as they do in the 3rd, 4th, and 5th districts. They are undetected because they are off the platforms (e.g. Airbnb, VRBO). These stays are usually related to family, relatives, friends, members of fraternal, religious and social organizations, and business associates. That economy is informal, although it may be “advertised” on social media (but not on the booking platforms).

Slide 4 shows the status of the applications. This is poorly presented data and covers up a lot of questions. Why were some non-hosted applications approved before others? What is the time lag for permit approval, and why? There is some discussion about blaming the permit approval process on incomplete applications, etc. Here staff shows their contempt for property owners, Santa Rosa voters and others trying to follow their convoluted, defective, and aggressive Urgency Ordinance.

Slide 5 and 6 Code Enforcement shows 124 complaints. When we analyzed the data from our report, we did find a couple properties with multiple complaints, but that doesn’t account for the missing 28 files. Also, most of the property owners when contacted said they never received a complaint. Only five properties (some with multiple complaints) regarded a breach of operation standards (estimated 8% - 8 complaints – had to do with operational violations like noise, parking, excessive occupancy – out of 100), however property owners for most of those properties have evidence that refutes the accusations.

The other 92% are divided between citations given to those in the permit process apparently admitting that they had short term tenants prior to applying for a permit (~48) or were caught operating without a permit, and ~44 who received a citation because an activist prepared a list of properties with defective advertisements and submitted it to enforcement. This also coincides with a list of about 40 properties whereby a complainer and staff had decided these properties need intense, extra-judicial scrutiny to deny their permit or to harass them out of business). We are researching to see to

what extent this list was formed by racial animus. We are certain that we will not find any official complaint history over the past 5 years for the addresses on this PED hit list.

Council member Sawyer has questions about Code Enforcement at 0:23:25, Mayor Rogers at 0:28:55 (see below)

You can see they are looking for every way to write a citation, so it becomes a first strike. There was little discussion about if the appeals system was fair or compliant with the law, whether an administrative appeal was allowed, if the fines are reasonable, or what constitutes a "strike". There was no discussion about the complaint process, in that each complaint from the public should go first to the property contact to correct. "Due Process" seems to always be in air quotes. Also missing is any discussion over penalties for unfounded or vexatious complaints.

IF YOU HAVE RECEIVED A CITATION, IT IS IMPORTANT TO FIGHT IT. IF YOU DETERMINE THERE IS A CITATION ON YOUR RECORD, BUT YOU DIDN'T KNOW ABOUT IT, YOU WILL NEED TO CONSIDER AN APPROPRIATE STRATEGY. MANY WHO HAVE FOUGHT THEIR CITATION (WITH OR WITHOUT LEGAL ASSISTANCE) HAVE BEEN SUCCESSFUL. OTHERS HAVE BEEN BULLIED BY CODE ENFORCEMENT. EVERYBODY WHO HAS BEEN SUBJECTED TO THE CITY'S OVER-REACH AND DEFECTIVE PROCESSES SHOULD ALSO PARTICIPATE IN PUBLIC HEARINGS, WHETHER OR NOT STRS ARE ON THE AGENDA. ALSO CONSIDER FILING SEPARATE LEGAL ACTIONS IF YOU DETERMINE THE CITY'S BEHAVIOR WAS EGREGIOUS (ASSISTANCE MAY BE AVAILABLE). ALSO, WE MAY BE ABLE TO DEMAND EN MASSE REVIEW THROUGH THE CITY'S POLICE OVERSIGHT PROCEDURES.

Slide 7 shows TOT/BIA incomes alongside a discussion about finances. Further discussion at 0:39:20. The chart is practically useless, as it compares with a year in the pandemic the current performance and will probably not pass factual verification.

There should have been a discussion about the legality of the BIA collection here but there wasn't.

Slide 8 shows a "Comprehensive" Ordinance for Spring 2023. They will need to extend the Urgency Ordinance (this could happen within weeks). If we do not mount a rigorous challenge on the many defective and illegal provisions in the Urgency Ordinance when it is decided by Council to extend it, we may lose some of our power to object legally.

0:16:43 Council Member Fleming dives into the issue of STRs in HOAs. A map is requested.

0:21:21 Mayor Rogers comments on equity/equality

0:23:25 Sawyer discusses citations

0:24:35 "Due Process" discussed

0:25:00 Chief Building Official Jesse Oswald Appears

0:26:10 Rogers requests data on 196 applications as to ownership from Meads. Both make unfounded and unsupportable allegations negative to STRs.

Somewhere along here Rogers introduces a false equivalency with Cannabis Dispensaries permitting processes regarding proximity. Government planning around dispensaries are subject to CEQA; dispensary applicants are seeking to open a full time business whereas STR applicants may be looking for operational use of the permit from 0% - around 70% of the time.

There is a lot of confusion about "owners" and "managers". Lack of knowledge or purposeful deception?

0:28:55 Oswald rejoins with some more incomplete and inaccurate statements.

0:31:00 Introduces more requirements!

0:31:50 Discussion about hosted vs. non-hosted. Seeing them discuss it without a factual basis, and with their ideological slants means that they may support a false dividing line. Our data shows that both hosted and non-hosted properties have had a very small number of complaints over the past 5 years. None resulted in a citation. The common thread throughout our complaint log analysis is that most complaints are generated by a couple vexatious neighbors or frequent complainers targeting a couple of properties.

0:37:19 Can a long-term tenant be an on-site manager for a hosted STR? Answer should be yes!

0:39:20 This segment includes discussions about revenue, costs, etc. Some of the information factually is not correct. The full cost of the Urgency Ordinance (estimated to be approaching \$1,000,000 to date was not discussed) BIA also not discussed.

0:45:00 PUBLIC COMMENTS (3 MINUTES EACH)

Be sure to listen to all public comments. It is important to speak your truth about how the Urgency Ordinance impacts your operation, guest experience, and so on. They especially want to hear about how people of color, less wealthy families, and small groups are accommodated in STRs. Participate!

1:06:30 PUBLIC COMMENTS END

1:08:50 Discussion about parking

1:10:10 Faux outrage: "Have we engaged the operators?"

1:12:00 Discussion about extending the Permits

1:14:00 Sawyer on property rights.

1:14:50 Fleming on "protect the character of the neighborhood". Unfounded accusations; "permits for sale", caps.

1:17:14 Fleming on equity.

1:17:57 Fleming permit cost too high for non-hosted.

Policy discussion

1:20:56 Rogers chuckles at "5 Star Ratings". Education needed. (It seems like Rogers may have been the inspiration of Mead's original libel of calling "Superhosts" large corporate owners.)

1:21:00 Rogers riffs on several old tropes: STRs impact on schools, property values, neighborhood character all in negative ways... Education needed.

Rogers incorrectly thinks that management services are geared to hosted rentals. Lots of confusion and misinformation.

1:22:08 One year extension (this will need to come before Council, and we speculate Mayor Rogers will try to sneak it by with deficient noticing. We must protest rigorously, even if you think scarcity will give you enhanced opportunities or higher rates.)

1:23:06 Budget year synchronization with permits?

1:24:48 DISCUSSION TURNS VERY DARK. This is where all three council members are motivated by the false information served up by staff, as well as their own ideologies.

Moratoriums, opaque dealings, and a stealth maneuver extending the Urgency Ordinance on the horizon.

1:54:38 Meeting Ends.

Exhibit 5:

**7/1/22 Urgency Ordinances:
Commercial Cannabis (2017) vs. STRs (2021)**

(2 pages)

Comparing the 2021 STR Urgency Ordinance with the 2017 Commercial Cannabis Urgency Ordinance

2017 Commercial Cannabis Urgency Ordinance:

"BACKGROUND: Over the past year, the Council's Cannabis Policy Subcommittee has been working with staff and with cannabis industry stakeholders to develop comprehensive policies to regulate medical cannabis businesses within the city limits. On May 25, 2017, the City Council Cannabis Policy Subcommittee directed staff to bring forward to the City Council an Urgency Ordinance to temporarily remove the Limited Light Industrial (-LIL) Combining District from the list of eligible districts for medical cannabis commercial cultivation, pending further study of the appropriateness of cannabis cultivation within that District."¹

Document (June 13, 2017): <http://qcode.us/codes/santarosa/revisions/2017-009.pdf> (5 pages)

City Manager: Sean McGlynn (August 2014 – 5/29/21)

Analysis: the 2016 Commercial Cannabis Urgency Ordinance was worked out with industry and staff before and leading up to the June 13, 2017 Urgency Ordinance. The Urgency Ordinance, created over several months, surfaced in the Planning Commission, which meets regularly (proceeding 24 months held 30 meetings). The Cannabis Sub-committee was formed in January 2016.

VS.

2021 STR Urgency Ordinance:

"The Santa Rosa City Council voted early Wednesday to impose emergency regulations on vacation rental properties in a harried first step toward governing a growing, disruptive industry in Sonoma County's largest city."²

"BACKGROUND: The City does not currently have formally adopted regulations addressing the rental of residential properties for a period of less than 30 calendar days (short-term rentals) as a land use separate and distinct from a residential land use. Unregulated short-term rentals have the potential to pose public safety hazards by impacting the ability of neighborhoods to safely evacuate during emergency events due to excessive parking on narrow streets. There is also a decreased ability to communicate with transient renters who may not be familiar with local warning and alert systems. Unregulated short-term rental activities have also led to increased frequency of complaints related to noise, occupancy, and large events requesting Police, Code Enforcement, and Planning staff response despite a lack of resources or a regulatory framework for enforcement. The purpose of this ordinance is to provide a regulatory

¹ 6/13/17 City Council Agenda, Item #14.2

² <https://www.pressdemocrat.com/article/news/santa-rosa-city-council-imposes-immediate-regulations-on-short-term-rental/>

framework for short-term rentals in order to preserve the public peace, welfare, health, and safety by providing operating standards to address community compatibility, public safety threats due to wildfires and other potential emergencies requiring evacuation, limited housing stock, and the COVID-19 pandemic.”³

Document (10/12/21): <https://srcity.org/DocumentCenter/View/33773/Short-term-rental-ORD-2021-011-signed> (15 pages)

Interim City Manager: Jeff Kolin (June 1, 2021 – December 31, 2021)

Analysis: The 2021 STR Urgency Ordinance was created for several months prior to coming before Council by staff and elected officials working behind closed doors, WITHOUT industry input on a continuous basis, or any basis (except a zoom call held with “industry”⁴ as part of ramming this through). The first public hearing for the STR Urgency Ordinance was held the day it was on the agenda. The STR Urgency Ordinance surfaced through the Economic Sub-Committee which historically meets very irregularly (proceeding 24-month period held 10 meetings). The STR Urgency Ordinance was aimed at restricting prior uses, whereas the Cannabis Urgency Ordinance was aimed at preventing uses before they occur. The STR Urgency Ordinance had few verifiable facts used to demonstrate the need for the urgent action, whereas the Cannabis Urgency Ordinance was planned in a sequence of legislative events fostering government-industry cooperation to usher in new uses.

6/24/22, Truthintourism@gmail.com

³ 10/12/21 City Council Agenda, Item #15.1

⁴ <https://youtu.be/3cvReirNOJ4>, Short Term Rental/Vacation-Industry Focused Virtual Public 9/29/21 Meeting