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**Durham Rental Housing Commission
Tuesday, December 15, 2009 – 4:00 PM
Durham Town Hall - Council Chambers**

MEMBERS PRESENT: Chair Paul Berton, Rene Kelley, Brett Gagnon, Sam Flanders, Tom Johnson, Ann Lawing, Martie Gooze (via telephone)

MEMBERS NOT PRESENT: Karl Van Asselt, Mark Henderson, Ryan Deziel, Brendan J. O'Sullivan

PUBLIC ATTENDEES: Bernadette Komonchak, Jackie Hinckley, Brett Wyman, Inge Judge, Kitty Marple, Jim Jelmberg, Janice Aviza, Annmarie Harris, Diana Carroll, Todd Selig, Robin Mower

- 1) **Call the meeting to order and acknowledge absentees:** Chair Berton called the meeting to order at 4:10 pm. He noted that this is a workshop and asked for Public Comments.

Public Comments:

Diana Carroll said she felt the last meeting of the Durham Rental Housing Commission was very informative. She said Deputy Chief Kelley's report was most enlightening, especially the information on the fine structure and recommendation regarding the fines. Ms. Carroll also noted that Mark Henderson's report from the Durham Landlord Association was good information and felt their efforts to contact other landlords is very helpful and thanked them for their efforts.

Jim Jelmberg said last week he brought up the possibility of using the conditional use permit process as a way to create a deterrent to the buyers of single family homes from using them as investments. He noted realtors would be required to disclose to potential buyers the need to apply for a conditional use permit.

The public and commission members discussed the UNH DVD "Choices Matter" which follows actual students arrested for alcohol violations in Durham through the arrest process. Ann Lawing said the DVD is shown to parents at June orientation. She said the DVD is approximately 15 minutes and could be made available as a link on the Durham Rental Housing Commission's web page.

Robin Mower – is there any assurance from freshmen that they have viewed the DVD. Ann: we make it available – heavy push it to them and their parents – but do not require it – ra's program around it

1 Sam Flanders said he received two emails from residents that were unable to attend the meeting
2 today. He said Diane McCann wrote an email regarding UNH is repurposing the dorm Smith
3 Hall for administrative offices. She noted this will lessen dorm space on campus and asked if the
4 University has plans to displace more students. Ms. McCann wrote that she feels the Town
5 should be made aware of any plans by UNH regarding such actions. Ann Lawing said the
6 University is in the planning stages of adding rooms on campus to replace the lost dorm rooms.
7 Chair Berton said the demand for housing on campus and off are being met. He said the soft
8 rental market in Dover and Newmarket is luring more students to rentals in those locations.

9 Diane Carroll said that Smith Hall is a community of students from all over the world who wish
10 to live in an environment with that flavor. She said she hopes the University will respect this and
11 keep this community intact so there are no unintended consequences.

12 Ann Lawing said this has been discussed. She noted this is not the first time that UNH has
13 repurposed a dormitory and the Smith Hall residents are being consulted about options on
14 campus.

15 Kitty Marple asked the board about the cost of a dormitory room versus the cost of a student
16 living in an apartment in Durham. Chair Berton said that part of his pricing is driven by what
17 UNH charges for a dorm room for the school year. He said, typically the cost of his apartment
18 for 12 months is comparable to the cost of a UNH dorm room for 9 months. Deputy Chief
19 Kelley said his daughter graduated from UNH 2 years ago. He said she lived on campus the first
20 2 years and in an apartment in Dover the second two years – he noted it would have been less
21 expensive to stay on campus. Brett Gagnon noted that the students see their tuition bill that
22 includes room and board, billed twice a year – when they move off campus they have to think
23 about rent, cable, electricity, and heating, so it seems more expensive to them and therefore they
24 look for less expensive housing situations in Durham.

25 Sam Flanders said he also received an email from Diane Woods. He said Ms. Woods
26 encouraged the board members and the public not to focus on individual properties but on the
27 overall systemic problems and policy changes and enforcement needed to address these
28 problems. Mr. Flanders said he thought this was a very important point – determining and
29 focusing on the systemic problems. He said the questions of what pressures are creating these
30 situations may help with diminishing the current problems.

31 Robin Mower asked Chair Berton if he had spoken with any other members of the DLA
32 regarding the seven recommendations from the Neighborhood Association. Chair Berton said
33 the landlords are encouraged that the Neighborhood Association's suggestions were shifting
34 from adding new rules and regulations to how to strengthen and effectively enforce the existing
35 regulations. He said they are also very encouraged about the new staff member in the code
36 enforcement office.

37 Todd Selig responded to the public comments and concerns regarding the repurposing of Smith
38 Hall. He reminded those present that there is a connection between UNH's interest in changing
39 the use of Smith Hall and the Town urging the University to locate the new business school in a
40 downtown location. He said the downtown location is driving the need to find alternative office
41 space for the buildings being demolished for the new business school.

1 Todd Selig reported on revising the composition of the rental housing commission. He said upon
2 further research it was discovered that the Rental Housing Commission was established as a
3 result of a court settlement. Therefore the composition of the Commission must be agreed upon
4 by those parties involved in the court settlement. Mr. Selig said the Town would be writing a
5 letter to the Durham Landlord's Association and asking for their acceptance of the change in the
6 composition of the Commission.

7 Todd Selig said he spoke with the Fire Department regarding the suggestion that the Fire and
8 Police report together to calls. He reported the Fire Department said they are protective of their
9 perception by the public of being a helping resource and don't think it would be wise to create a
10 view of them as being an enforcement agency. The Fire Department said they would be willing
11 to step up its patrols to parties in single family neighborhoods and if they think the house is
12 overpopulated they can call the police for backup.

13 Todd Selig said the Town Council informally discussed the police officer position. He said there
14 was not consensus to add in the police officer. Mr. Selig noted that two Town Councilors were
15 not present at the meeting and the issue will be discussed again at Monday's meeting. He said
16 the Rental Housing Commission could make a recommendation to the Town Council to add the
17 officer position back into the budget.

18 Mr. Selig said he will look at the fine structure from the Police side to see if there is room to
19 make changes. He noted some of the fines are at the grace of the court – that is the court decides
20 what the fine is, so a conversation with the district court may be a good idea to see if they are
21 comfortable with the new fine structure. Mr. Selig reported that the fine structure was revisited a
22 few years ago. He said some students are not thinking ahead that their actions will result in fines
23 – so the increase in fines may not be a deterrent.

24 Mr. Selig requested the Rental Housing Commission to discuss the issue of changing the noise
25 ordinance to an hour earlier at 10 instead of 11 pm.

26 Todd Selig said that Walter Mitchell is still in the process of making contact with the district
27 court. He said the Town Attorney had concerns regarding the wording in a letter the Town sent
28 to a property stating the Town's intention to go forward with an administrative search warrant if
29 not allowed in to enter and inspect the property. Mr. Selig reported that the Town is waiting to
30 hear from attorney before any further letters are sent out.

31 Mr. Selig noted that there was a lot of discussion at the Durham Rental Housing Commission
32 regarding the Choices Matter video and Community Guide before those publications were
33 produced – he said the Rental Housing Commission reviewed numerous drafts of these that lead
34 to the Choices Matter DVD and complimented UNH on being responsive to Town concerns.

35 Todd Selig reported that Marcus Evering has begun working part-time and asked for an update
36 from Tom Johnson.

37 Tom Johnson reported that Marcus Evering is working on an hourly basis – in the mornings. He
38 said he is going through the normal new employee orientation and training. Mr. Johnson said
39 Mr. Evering is gathering information regarding properties and will pick this up again in late
40 January when UNH comes back into session.

1 Robin Mower asked Tom Johnson to discuss the data base being worked on.

2 Tom Johnson said his office is creating a data base of rental properties by gathering information
3 about each property and putting it into a searchable database (such as Microsoft Access).

4 The members and Mr. Selig discussed the policeofficer position. Deputy Chief Kelley reminded
5 those present that the position being discussed is not an additional officer – he explained that in
6 2008 an officer retired and in 2009 the position went unfilled. He noted the Police Department is
7 looking to get that position back to bring the number of officers back to where it was in 2008.
8 There was a discussion regarding the timing of hiring an officer. Deputy Chief Kelley explained
9 that if an officer was hired in April, the individual would go through the academy from April too
10 July and then be required to work with another officer until mid to late October when they
11 would be able to police alone. Chair Berton asked if there was a market for already trained
12 officers. Deputy Chief Kelley said in the last couple of searches there have not been any
13 certified officers that have applied. Ms. Gooze suggested voting to support the hiring of the
14 police officer.

15 **Paul Berton MOVED that the Durham Rental Housing Commission recommend to the**
16 **Town Council to add back into the budget a 19th police officer. This was SECONDED by**
17 **Ann Lawing and APPROVED unanimously.**

18 *Deputy Police Chief Kelley abstained.

19 Deputy Chief Kelley said he felt the Commission is moving in the right direction. He noted
20 several years ago there was a recommendation made and discussed with the Rental Housing
21 Commission regarding a Disorderly House Ordinance. He distributed copies of the proposed
22 ordinance and encouraged all to review the proposed ordinance, digest, make suggested changes
23 and next meeting discuss and invite public comment. He noted the proposal holds the property
24 owner accountable while still being able to issue summons to the residents of the property –
25 however – after a certain number of violations at the property the property owner is brought in
26 and held responsible. He said the property owner is told what steps need to be taken to get the
27 desired affect – either the tenants start behaving or the eviction process is begun and if this does
28 not occur, a financial impact is brought on the property owner. Robin Mower asked what
29 happened to the proposed ordinance in 2004-2005. Deputy Chief Kelley said it was brought
30 before the Rental Housing Commission, but then the situation started to improve and it was
31 decided to hold the proposal in reserve. Sam Flanders asked where the fines would go from this
32 ordinance. Deputy Chief responded that the fines would go to the town of Durham's general
33 fund. Robin Mower said by deterring party destination houses, the roaming groups of people
34 would be deterred.

35 The group discussed the effectiveness of changing the time requirement of the Noise Ordinance
36 from 11 pm to 10 pm. Ms. Gooze raised the issue of the Police Department being able to
37 enforce an extra hour of the noise ordinance. Deputy Chief Kelley said he felt the hour of the
38 noise ordinance should be what the community feels is best and recommends to the Town
39 Council. Robin Mower suggested that there may be a psychological component to lowering the
40 noise ordinance hour to 10 pm – the time may be associated with a family neighborhood. Sam
41 Flanders noted that noise issues do not generally begin until after 11 pm. Kitty Marple asked if

1 changing the hour would be a deterrent. Annmarie Harris suggested that if the earlier hour was
2 enforced a few times, word would spread and perhaps it would help the problem. Sam Flanders
3 noted that changing the hour of the Noise Ordinance would not impact the problem of the
4 roaming groups of people. Deputy Chief Kelley said noise complaints don't usually begin until
5 after midnight.

6 Sam Flanders suggested the idea of having a maximum assembly limit after a certain time of
7 night (such as 11 pm). He explained this meant that there would be a limit of how many people
8 could gather at a residential home after 11 pm without applying for a permit. Mr. Flanders
9 explained that the Town Administrator said there could be some flexibility by having the police
10 be able to write a permit for people that are having a gathering without a permit for the first time
11 with a warning that the next time they need to apply for the permit ahead of time. Todd Selig
12 noted this was the second of several ordinances brought forward in 2004-2005 (the same year the
13 disorderly household ordinance was brought forward). He said the Town also has a draft of this
14 ordinance for review and comment.

15 Chair Berton said this resembles the social occupancy limit that the landlords have suggested.
16 He said he feels the benefits outweigh any inconvenience to local residents.

17 Robin Mowers said both proposed ordinances are worthy of being reviewed by the Rental
18 Housing Commission

19 Deputy Chief Kelley said this ordinance would be a useful tool to the police department. He said
20 he felt it can be administered fairly simply – if residents forget to get a permit ahead of a
21 gathering the on-duty shift commander can issue a permit. He felt this would allay fears
22 residents may have about this ordinance.

23 Chair Berton asked if the permit would be issued to property owners only or to residents as well.
24 Deputy Chief Kelley said it would be issued to residents only if there was written permission
25 from the property owner.

26 Robin Mower asked if there were any arguments made against this proposal in 2004-2005. Todd
27 Selig replied that the major concern was that it would be applicable to everyone in town and
28 citizens were concerned about needing to get permits for gatherings such as wedding. He noted,
29 since the situation in Town was improving it was decided to put this ordinance on the
30 backburner. He said with the issues in town now, he feels this proposed ordinance would be
31 viewed differently.

32 Annmarie Harris said that many of these suggestions are trying to solve problems as they occur
33 rather than being preemptive and preventing the problems. She suggested considering
34 registration of single family non owner occupied residences. Ms. Harris said registration would
35 be a vehicle for gathering information and the owners would be made aware of town ordinances.
36 She encouraged considering registration of single family non owner occupied houses as rental
37 property.

38 Kitty Marple asked how you can ensure that owners will register their property. Tom Johnson
39 said when a deed comes into the office on a property transfer, the staff will be able to see if
40 someone is purchasing the property that resides out of state and if this is the case will send out a

1 letter informing the owner that they are required to fill out a form and register the property as a
2 rental property. Todd Selig said there would still be the issue of someone who currently is a
3 resident and then begins to rent their property and live elsewhere. He said in this case when
4 there is no transaction to trigger the Town's response it would have to be reported to the Town
5 by other residents in the neighborhood.

6 Chair Berton asked what information the registry would require. Robin Mower said it would
7 most likely be address of the property; who the owner is of the property; a local contact
8 responsible for making decisions; the number of occupants living in the residence.

9 The members discussed the issue of homes that are held in trust and if the ordinance could be
10 written to say if the property is being rented and the house is held in trust it qualifies as a non
11 owner occupied property. It was noted that this issue needs to be reviewed by the town attorney.

12 Ms Gooze began a discussion regarding the 10 day waiting period before entering a residence for
13 inspection upon notice of violation of "three unrelated" ordinance. Todd Selig noted that the
14 code enforcement office can request access at any time if the resident gives their approval. He
15 said once the violation has been suggested the resident has 10 days to come into compliance.
16 Ms. Gooze asked if that time frame could be shortened. Mr. Selig said the town would need to
17 seek the guidance of the attorney to see what is needed to bring forward a successful case. He
18 explained the process; if the code enforcement office believes there is over occupancy a letter is
19 written, if the occupants do not come into compliance (with proof) the town can start to take
20 action. Mr. Selig said there is the possibility of pursuing these violations in a criminal capacity
21 rather than just a zoning violation. He said the attorney thought this might send a strong signal
22 through the rental community that Durham is very serious about prosecuting violations.

23 Chair Berton said all the landlords are aware of the serious issues with the single family rental
24 situation and are willing to work towards a solution for that class of property. He noted the
25 landlords are even more interested in helping with this issue if 16% of the off campus rental
26 market is being taken up by single family rental housing.

27 Chair Berton suggested the Commission meet again on Tuesday January 12th at 4 pm to discuss
28 the following proposed solutions: social occupancy permit after 11 pm, disorderly house
29 ordinance, registration of non owner occupied single family rental housing, and the conditional
30 use permit (change of use from owner occupied to non owner occupied).

31 The next meeting of the Durham Rental Housing Commission will be on Tuesday January 12th at
32 4 pm.

33 The December 15, 2009 meeting of the Durham Rental Housing Commission adjourned at 5:40
34 pm.

35 Respectfully submitted by,

36 Susan Lucius, secretary to the Durham Rental Housing Commission
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