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Durham Rental Housing Commission
Tuesday March 23, 2010 – 4:00 PM
Durham Town Hall – Council Chambers

MEMBERS PRESENT: Chair Paul Berton, Ann Lawing, Sam Flanders, Jay Gooze (Town Council Representative), Martie Gooze (interim Neighborhood Representative), Mark Henderson

MEMBERS NOT PRESENT: Brett Gagnon, Ryan Deziel

PUBLIC ATTENDEES: Laura Specter (Mitchell Municipal Group), Kitty Marple, Kay Morgan, Diana Carroll, Janice Aviza, Rene Kelley (Deputy Police Chief), Tom Johnson (code enforcement office), Robin Mower, Annmarie Harris

1) Call the meeting to order.

Chair Berton called the meeting to order at 4:00 pm.

Reports:

Police Report – Deputy Chief Rene Kelley

Deputy Chief Kelley said the past several months have been fairly quiet. He said there have been the typical disturbance calls. He said the Police Department is gearing up for the spring and will be starting extra coverage in the next couple of weeks. He said the Department is still short staffed, but the department is making contingent plans to deal with this. He explained there are three vacancies and they have hired two for the next academy class and they are in the process of hiring a third for the academy class in April.

The members discussed the change in the membership of the commission; Town staff members are no longer permanent members on the commission but are encouraged to continue attending and contributing to the Commission and there will now be two neighborhood representatives.

Update on Single Family House ordinance violations - Tom Johnson

Tom Johnson distributed handouts of data of ordinance violations compiled with the new software program being used by Town.

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2 The report listed data for the month of February for trash violations and for zoning
3 violations. Mr. Johnson said the zoning violators were sent letters stating the Town's
4 concerns. He said the document is a work in progress and is being refined. Mr. Johnson
5 reported that there have been good results, a lot of different neighborhoods were covered
6 and he feels tenants and landlords are talking to each other. He noted some came before
7 the zoning board requesting variances, which were denied. The members discussed some
8 specific properties and possible violations at these properties and how they were
9 resolved. Mr. Johnson said the next step in the process is to have the Town attorney send
10 a letter to the landlords requesting that they come into compliance with the ordinance.
11

12 Laura Specter of Mitchell Municipal Group, said the goal of the letters is to give the
13 landlords one last chance to come into compliance so if the Town goes to court it can be
14 said that two letters were sent and they were given the time to come into compliance with
15 each letter.
16

17 The members discussed with Mr. Johnson the need for a part time code enforcement
18 office assistant. Mr. Johnson said there is a need for a part time person at different
19 intervals throughout the year – such as at the end of August/September.
20

21 The members discussed with Laura Specter the legality of suggestions to deal with the
22 issues associated with single family non owner occupied houses. Sam Flanders noted
23 there has been improvement because of the increased enforcement. He said he would
24 like to see more of a permanent solution. The idea of registration was brought up for
25 discussion.
26

27 Laura Specter said she noticed the Town does have a registration ordinance on file and
28 asked if it is being enforced. Paul Berton said there have been periods of time when the
29 registration was done (he cited 1979, 1984 and 1989 as dates he had paperwork showing
30 registration for his properties), but it has not been done in recent years. He also noted that
31 there has not been any record keeping by the Town of these registrations. Mr. Berton
32 said this makes him skeptical of another registration process being required. Sam
33 Flanders commented that part of the settlement with the Durham Landlord Association
34 was that members of the Association were required to register their properties. He noted
35 it wasn't stated if the registration was a one-time requirement or an ongoing requirement.
36 The members discussed using a database to maintain a registration list.
37

38 Laura Specter said the safest thing to do is to enforce the existing ordinances. She agreed
39 the "three unrelated" ordinance is difficult to enforce, but said if data and information is
40 gathered, a judge will review the information regarding ordinance violation. Ms.
41 Specter noted there are two requirements to getting an administrative search warrant; 1) a
42 suspicion that there is a violation and 2) the town needs to seek and be denied entrance to
43 the house. She suggested the next step after enforcement of existing ordinances is to
44 adopt generally applicable ordinances. Ms. Specter said she reviewed drafts for a change
45 to the noise ordinance and a new disorderly house ordinance. She explained that in New

1 Hampshire creating different classes of property puts you in the realm of an equal
2 protection claim, so it is safest to have the ordinances apply to all rental properties.

3
4 Sam Flanders asked if there is any way to get the State legislature to create legislation
5 that would favor ordinances dealing with student housing. Ms. Specter suggested writing
6 a letter with the Town of Hanover and perhaps Keene and Plymouth.

7
8 Jay Gooze asked if Hanover has a registration process. Ms. Specter replied that they do
9 not, but Belmont does and she provided Tom Johnson with that statute.

10
11 The members then began a discussion of a disorderly house/large gathering ordinance.
12 Mark Henderson said the landlords are concerned about such an ordinance because they
13 feel the landlords will be held responsible no matter what efforts they make to solve
14 issues with the tenants. The members and Ms. Specter discussed this issue and decided
15 to have Paul Berton and Mark Henderson work on the wording for the disorderly house
16 ordinance.

17
18 Mark Henderson said the landlords have thought about ways to classify a professionally
19 managed property. He said some things discussed that would be needed to qualify would
20 be a local office, local phone numbers, quick response time, procedure in place for
21 managing the property. Mr. Henderson said he feels the smaller landlords would be more
22 likely to support an ordinance if this designation could be legally made. This lead to a
23 discussion regarding setting a minimum standard for rental properties that can be
24 instituted and then establish a different class from the absentee landlord.

25
26 Ms. Specter said this situation would come closer to creating a substantial relationship to
27 a legitimate purpose which is getting closer to being able to create a different class. She
28 asked the commission/Town to come up with what concerns are created by this class that
29 it does not have with the other class and then the firm would be able to draft something.

30
31 The members discussed an incentive to the professionally managed properties by
32 allowing an increased density to those properties. There was major disagreement with
33 this suggestion – saying the increase of people at a property would cause problems no
34 matter how well managed the property is. The final consensus was that the members
35 wished to maintain the neighborhoods as family neighborhoods and not student housing.

36
37 The members discussed a large gathering permit – separate from a disorderly house
38 ordinance. Paul Berton asked if the community would have a problem with such a
39 process. Laura Specter said she reviewed a draft which stated this would apply to
40 gatherings of 25 or more after 9 pm. The members discussed the number of 25 people
41 gathering being the burden to apply for a permit. It was decided that a public hearing
42 would be needed for the ordinance to pass and the public would comment on the number.
43 Ms. Specter noted the permit would need the signature of the property owner, so this
44 would make the property owner more aware of what is going on at their property.

1 Deputy Chief Kelley said the noise ordinance is being rewritten to change the time from
2 10 pm to 9 pm and also to make the wording more defined and concise.

3
4 UNH Report – Ann Lawing

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6 Ann Lawing said there will be specific information handed out to the students about
7 expectations in the neighborhoods.

8
9 Martie Gooze asked if any thought has been given to suspending students from the
10 University and not just removing them from the dorms. Ms. Lawing said there have been
11 conversations about this, but there are philosophical differences among the
12 administrators.

13
14 The members asked Laura Specter to return for the next meeting of the Durham Rental
15 Housing Association.

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17 The next meeting was scheduled for Wednesday May 5th at 4 pm in Town Council
18 Chambers.

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22 Respectfully submitted by,

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24
25 Sue Lucius, Secretary to the Durham Rental Housing Commission