

*Approved - July 28, 2010*

**Town of Durham**  
**Rental Housing Commission**  
Special Meeting  
June 23, 2010  
4:00 pm  
Town Council Chambers

Members Present: Chair Sam Flanders, Ann Lawing, Jay Gooze, Kitty Marple, Paul Berton, Mark Henderson and Richard Pasner (new student representative)

Members not present: Brett Gagnon

Public attendees: Steve McCusker (Durham Fire Department), Tom Johnson (Code Enforcement Office), Gerald Taube, Karen Mullaney, Rene Kelley (Deputy Police Chief), Robin Mower, Laura Specter (Mitchell Municipal Group), John Kostis (Kostis Enterprises, LLC), Diane McCann, Janice Aviza

Chair Flanders called the meeting to order at 4:10 pm.

**I. Approval of the Minutes from the Prior Meeting**

*Jay Gooze MOVED to approve the May 19<sup>th</sup>, 2010 minutes. This was SECONDED by Ann Lawing and APPROVED unanimously.*

**II. Reports From Town Representatives (Code Enforcement, Police, Fire, Town Administrator, other boards or commissions)**

Tom Johnson (Code Enforcement Office) said the Town recently won a court case by a plea of guilty by mail to parking offenses. He said the case was backed up with photos, notices were sent, the individual failed to comply and then the town issued a citation. Mr. Johnson said a fine was awarded with a payment schedule and the Town Administrator's Office has received the first scheduled payment. Mr. Johnson said the judge was impressed with the photos and was sympathetic to the neighbors' plight based on the photos.

The members discussed if there has been any reaction to this court case and the possibility of publicizing the case and its results. The Commission decided to have Jay Gooze speak with Town Administrator Selig about the possibility of contacting local news media regarding the case.

Gerald Taube brought up the issue of what the University's role is in such a case and asked if the University was notified of the situation. He suggested that such situations should be reported as a matter of routine to University officials. Ann Lawing (Dean of Students at UNH) responded

that she does take an active role in following up with students when a situation occurs that compromises the academic interests of the University. She noted the University conducts an informational campaign throughout the year (as well as at orientation) regarding the students need to be good citizens of the town of Durham.

The members discussed ways to alert the landlords of changes in ordinances and policies. It was suggested that copies of new ordinances and/or revisions to ordinances be mailed to out of town landlords.

Rene Kelley (police department) reported that there have been a number of noise complaints over the past several weeks. He noted that a notice was received about a residence on Cowell Drive. Deputy Police Chief Kelley said the Police Department has enlisted Ann Lawing's assistance with contacting the owner and attempting to alleviate some of the issues.

The members discussed possible reasons for an increase in complaints this summer over previous summers. Some members felt the increased renting of private homes may be a possible reason.

Steve McCusker (Deputy Fire Chief) reported no changes since the last meeting.

Kitty Marple asked if the fire department ever conducts health and safety inspections. Deputy Fire Chief McCusker said if the fire department responds for a call and a safety or health issue is evident then action can be taken. He said the department can request permission to enter and inspect a property.

### **III. Comments from Commission Members**

The members began a discussion regarding the proposed Rental Registration Ordinance. Attorney Laura Specter reported that she spoke with the Durham Landlord Association's attorney regarding this issue. She said the landlords are not unsympathetic with the Town but are concerned with a rental registration ordinance for two reasons; they are not certain it is within the Town's authority (no case law precedent) and also feel it is not necessary to include professionally managed properties with non-professionally managed properties. Attorney Specter said she requires guidance from this board as to whether or not they want to continue to pursue a rental registration and if so to pursue it as a broad registration process or focus on the non-professionally managed properties.

The members discussed with Attorney Specter if pursuing a registration process for non-professionally managed properties is an avenue that can be defended legally. Attorney Specter replied that it will get challenged, but it can be defended. She noted that not separating the classes would be the safest legal route.

Jay Gooze said he feels this is the next necessary step to get to the over occupancy problem. Paul Berton said he feels registration for non-professionally managed properties is a direction that everyone can agree on and noted that the landlords are concerned about this issue because there will be fees and inspections associated with this ordinance. Richard Pasner noted that the

landlords will be responsible not only for the cost of any associated fees but also any costs that may materialize as a result of inspections.

Jay Gooze reiterated his hope that this avenue will continue to be explored.

#### **IV. Review, Adjustment, and Consent to the Agenda**

Chair Flanders asked the members if there is anything to be added or changed to the agenda. Jay Gooze noted that he will be speaking about the noise ordinance and the disorderly house ordinance.

#### **V. Public Comments**

Gerald Taube suggested making rental registration a consequence of an ordinance violation. He said he is concerned that the professionally managed properties which are managed well and the owners are cooperating with the town are being asked to do something that may cause them concern. Mr. Taube suggested a fine plus the requirement to register as a consequence of the violation.

Laura Specter agreed that this idea makes sense but noted the registration ordinance is typically not tenant behavior based, but safety based.

Sam Flanders said the proposed disorderly house ordinance is the first ordinance that addresses behavior.

Gerald Taube suggested adding the registration requirement as a provision to the disorderly house ordinance.

The members discussed when in the ordinance the registration would be triggered. Jay Gooze suggested adding it to the second disorderly event in a year. Attorney Specter said she would check on this. The members discussed how this would affect the reading of the ordinance by the Town Council.

Russell Miles said he lives in Durham and owns two rental properties. He said what he wants is a clear ordinance that is equally enforced to provide a fair and equal playing field.

Jay Gooze reported that the Town Council passed the revised Noise Ordinance. He explained that the reference to the noise meter was removed and the time frame was changed to 10 pm.

#### **VI. Feedback/Discussion Durham's Proposed "Disorderly House Ordinance"**

Jay Gooze reported that the wording in the Disorderly House Ordinance was reworked to be clearer and is scheduled to be brought back to the council as a unanimous consent agenda item.

The members discussed if the violations pertain to a unit address or street address. It was the consensus of the commission members that the intent was to have the violations pertain to a unit

address. Attorney Specter said she would clarify the wording regarding this in the proposed ordinance.

The members discussed adding the registration requirement as a consequence of the second disorderly event in a year. It was the consensus of the Commission members to make this addition to the proposed ordinance. Laura Specter will work on the wording to add registration as a consequence of the second event to the proposed ordinance.

Jay Gooze noted that this change to the proposed ordinance may require another reading by the Town Council (and removal from the unanimous consent agenda). He will work with Town Administrator Selig on the proper procedure to present the amended proposed ordinance to the Town Council.

## **VII. Discussion of Durham's Proposed "Large Gathering Ordinance"**

Jay Gooze suggested tabling this ordinance and reviewing it at a later date.

Mark Henderson agreed saying he feels it would be more productive to put the members efforts into the disorderly house and revised noise ordinance.

It was the consensus of the members to table the Large Gathering Ordinance.

## **VIII. Discussion of Need for Property Maintenance Ordinance**

Tom Johnson distributed a table of contents from a sample property maintenance code. He suggested the members review the table of contents and decide which sections they feel may be appropriate for Durham and warrant more research.

Robin Mower noted that the property maintenance code is complex and suggested someone reviewing other college towns to see if there are any with maintenance codes.

Richard Pasner volunteered to research property maintenance codes in other college towns.

## **IX. New Business or Other Business as Time Permits**

The members discussed the Town of Durham participating in a work force housing initiative. Kitty Marple volunteered to work on this committee, Jay Gooze will be the Town Council representative and the landlords will also have representation on this committee.

The members discussed how best to address getting information to out of town landlords. Laura Specter said it may be helpful to speak with Town Administrator Selig and offer to draft a letter to the landlords for him to sign and send out. She also suggested updating the website and to send the web links to the landlords. Kitty Marple volunteered to draft a letter, Sam Flanders will speak with Todd Selig.

Chair Sam Flanders reviewed items to be included on the agenda for the next meeting;

- 1) Property Maintenance Ordinance
- 2) Disorderly House Ordinance
- 3) Mailing to out of town landlords regarding new and revised ordinances

#### **X. Setting of the Next Meeting Date**

The next meeting of the Durham Rental Housing Commission will be held on July 28<sup>th</sup>, 2010 at 4 pm at the Durham Town Hall in Council Chambers.

The August meeting of the Durham Rental Housing Commission is currently scheduled for August 18<sup>th</sup>, 2010 at 4 pm.

#### **XI. Adjourn**

The June 23d, 2010 meeting of the Durham Rental Housing Commission adjourned at 6:00 pm.

Respectfully submitted by,

Sue Lucius, Secretary to the Durham Rental Housing Commission