

Approved - August 18, 2010

Town of Durham Rental Housing Commission

July 28, 2010
4:00 pm
Town Council Chambers

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

Members not present: Brett Gagnon, Paul Berton, Jay Gooze

Public attendees: Annmarie Harris, Todd Selig, Gerald Taube, Tom Johnson (Code Enforcement Office), Robin Mower, Diana Carroll, Leonard A. Klein, Susan Roman, Neil Niman, John Kostis (Kostis Enterprises, LLC), Rene Kelley (Deputy Police Chief), Karen Mullaney

Chair Flanders called the meeting to order at 4:06 pm.

I. Approval of the Minutes from the Prior Meeting –

Ann Lawing MOVED to Approve the June 2010 minutes as written. This was SECONDED by Mark Henderson and APPROVED unanimously.

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

Tom Johnson (Code Enforcement Office) distributed photocopies (noting that he had received copy right approval from the International Code Council) of a sample property maintenance ordinance. Mr. Johnson said this type of ordinance may provide a means to address properties that complaints have been filed about with regard to lawns, building maintenance etc.

The members discussed this type of ordinance and what towns/cities in New Hampshire currently have such ordinances. The members also discussed that this type of ordinance should be based on health and safety issues. Richard Pasner noted that he looked at 20 towns or cities in New Hampshire that have such codes and noted that most had a population of 20,000 or more. Tom Johnson said most complaints are received from realtors or surrounding property owners concerned with property values.

Todd Selig (Town Administrator) introduced Clynton Namuo, author of an article in the Sunday News regarding college students and housing. He reported that Kitty Marple drafted an article regarding the Town of Durham's efforts regarding housing ordinances, which he edited and

distributed a copy to the members for their review. Mr. Selig noted the article speaks to housing and zoning regulations in Durham, a recent court case that the Town won, the Durham Rental Housing Commission efforts, the revised noise ordinance, and the new disorderly house ordinance. He explained the article also discussed other possible actions/ideas such as a large gathering ordinance, health and safety inspections, and the Town's general vigilance on these issues. He encouraged the members to review the article and send him feedback. Mr. Selig explained that he envisions submitting an opinion editorial to Fosters and also sending a letter to property owners outlining the Town's rules, regulations and ordinances. He said the Town has been in contact with the Seacoast Board of Realtors and asked the members if they felt that was an appropriate venue to reach potential home buyers to send them a modified letter alerting them to the housing rules in Durham.

Sam Flanders suggested gathering the names of realtors that have closed sales recently in the town and sending a letter to them.

Mr. Selig reported that the Town Council approved a zoning change to the ORLI/multi unit zoning on the west edge of town to allow single family and duplex use by conditional use. He noted this was in response to a query from a large student housing development company (Capstone) that is interested in developing a student housing complex in that area.

Mr. Selig reported that the police department's quarterly updates show an increase in responses to rental properties of more than 20% in the past quarter.

The members discussed the possibility of the Town gathering and tracking information on sales and purchases.

Mr. Selig said the Code Enforcement office has spent much of the summer concentrating on new construction, but late summer they will return to focusing on single family non owner occupied housing. Tom Johnson noted that his office has sent out 7 letters to property owners that were in violation of parking issues. He said all are correcting the violations and one has chosen to put the property on the market.

Mr. Selig reported that the Town Council members have expressed some interest in the Rental Housing Commission exploring an inspection program for health and safety issues. He noted a complaint was received regarding a property at 115 Madbury Road (Mr. Selig distributed photos to the members).

Mr. Selig also reported that the Town Council recently adopted a Community Reinvestment Act for downtown properties which allows a tax exemption for a period of time if a property meets certain criteria. He noted the Town received their first application for this exemption (which was approved by the Town Council) from Zigma Beta which invested \$800,000 in their building for improvements. Sam Flanders asked what the criteria are for the exemption. Mr. Selig explained that the improvements must exceed a certain % of the total value of the property or be in excess of \$75,000 and equate to a community benefit.

Mr. Selig said the major improvements made to the Zigma Beta building brought up the idea of requiring health and safety inspections to Greek buildings as part of the University's Greek recognition process. The members discussed this idea and suggested it should be a joint program between the University, the Town and the Greek system. Ann Lawing said she would bring the issue up to the Greek Coordinator. The members discussed the theory that improved living environments are not only safer for the tenants but may tend to improve behavior.

Rene Kelley (Deputy Police Chief) reported that the summer continues to be busy with the number of calls higher than last summer. The members asked if there have been any particular problem properties. Deputy Chief Kelley responded that for the most part it has been random, but there have been a couple of properties where there have been more than one call. He noted the property owners have been very cooperative.

The members discussed the property located on Rosemary Lane which has had multiple calls. Mark Henderson noted this building is only 60 days old and is a beautiful building. He said in this case the condition of the building has not harbored better behavior. Deputy Chief Kelley said the owner has been very receptive and has taken steps to approach the tenants and set guidelines. Mr. Johnson said he met with the owner, who informed him that he has hired someone to manage the property and be a presence in town.

The members discussed the property located at 22 Garrison Lane. Deputy Chief Kelley said the police have received multiple calls to this property. He noted they have been in contact with the owner who is taking appropriate steps.

Annmarie Harris suggested the Durham Landlord Association create a binder with sample leases for local landlords to use as templates.

- III. Comments from Commission Members – see individual discussion items
- IV. Public Comments – see individual discussion items
- V. Review, Adjustment, and Consent to the Agenda – all members consented to the agenda as written.
- VI. Update on Durham's Proposed "Disorderly House Ordinance"

Mr. Selig reported the Town Council did not feel comfortable integrating an inspection program into the "Disorderly House Ordinance." He referred to the distributed draft of the Disorderly House Ordinance and noted three changes suggested by the Town Council: 1) a second offense results in a \$500 fine, a classification of a disorderly house, however, if the owner meets with the Police Chief the fine is automatically waived; 2) in the third and subsequent offense the property own can appeal the disorderly house classification and fine to the Town Administrator; 3) the fine structure is changed to \$500 and \$1000. He noted the Town Council held a lengthy discussion on this ordinance and the current draft was the consensus document. He said this passed on the first reading and there is a public hearing scheduled for September 13th, 2010.

VII. Discussion of New Rental Housing Registration Ordinance –

Mr. Selig reported that individual Town Councilors have expressed their interest in moving forward with a registration of rental properties and having a regular inspection program for the purpose of focusing on health and safety.

Sam Flanders suggested that the Town would be able to compile its own list of rental properties without requiring a registration. He noted this list could be used to begin communicating with the landlords.

Kitty Marple said that the Code Enforcement Office currently has such a list and suggested that the draft letter regarding housing ordinances could be a way of communicating the housing rules in Durham. She noted the question is if registration is necessary.

Robin Mower said one of the benefits of a registration is that it could include the number of legal occupants which may be helpful going forward.

Neil Niman said he is hoping to learn from the Commission to what extent they are interested in a registry and to what purpose. He said he is interested in health and safety issues and feels there is an obligation to protect the renters. He said he would like to find out if the Commission is interested in bringing something forward and if the Commission cannot reach a consensus he may bring something forward.

Todd Selig said it is clear in the State statute that the only authority to enter a property is for health and safety issues. He noted the age of the housing stock in Durham (which is quite old) should be evaluated and may also be a reason for considering such a program.

Sam Flanders asked for the members opinions on this issue.

Richard Pasner said he is concerned that it is too intrusive. He said the renters deserve respect and feels that this is a way for the Town to be able to get into homes and not necessarily for health and safety aspects.

Anne Lawing said she is concerned about the feelings of the professional landlords who are not in favor of this issue. She said she feels they have made compelling arguments and concerns and those arguments should not be discounted. Ms. Lawing suggested there are other ways to respectfully deal with health and safety concerns.

Kitty Marple said she understands the professional landlords' point of view, but feels it is a matter of motivating uninvolved landlords to bring their properties into compliance. She said she does not view it negatively. Ms. Marple said the letter that will be sent to the landlords has a lot of information in it and will be a way to communicate and is start. She said she does not know if registration will help or not.

Mark Henderson said he did not think the focus of this commission was health and safety. He said he thought the focus of the commission was on renter behavior and lack of landlord

involvement. He said the Disorderly House ordinance makes everyone responsible for their actions. Mr. Henderson said he felt the main concern of the commission was the single family residence and behavior of renters and lack of interest by landlords which he feels a registry will not help.

Sam Flanders he previously felt a registry was not needed because the rental properties in town are known. He said over time he has become convinced that a registry may be helpful as a communication tool.

Sam Flanders asked for comments from the public.

Karen Mullaney said she understands the professional landlords' concerns and is not sure if registration is the answer, but is concerned that more and more properties are becoming rental properties. She said she feels there should be some process associated with the business of being a rental property in Durham.

Annmarie Harris said the town has aging housing stock and health and safety code inspections would be positive.

Sam Flanders reviewed the historical creation of the Rental Housing Commission. He noted the Commission was formed as part of a settlement agreement between the Durham Landlord Association and the Town of Durham as a result of a lawsuit brought based on a violation of individual privacy because the Town was asking for names of individual tenants as part of a registration process. Mr. Flanders explained that as part of the settlement all owners of rental properties agreed to supply the town with an inventory listing the number of rental units in each property and the number of tenants in each unit. He noted this means the town has had registration in the past similar to what is being proposed now.

Richard Pasner asked if the concern is health and safety especially with regard to older homes why not require inspections on all older homes. Mr. Selig responded that there is no framework to allow for inspection of private homes. He noted that rental properties fall under a different category because they are a business.

Mark Henderson asked if all rental properties would include accessory apartments. Tom Johnson replied that it would include the accessory apartment only – not the rest of the property.

Todd Selig explained his suggestion regarding the health and safety inspection for the Greek housing would be as a planned, systematic inspection that everyone would be aware of ahead of time. He said the beneficiary of a health and safety inspection system would be renters, since it would ensure a certain level of standard. Mr. Selig said the debate is whether such a program would make sense for the Town of Durham.

Robin Mower said the emphasis on health and safety is very clear and if having inspections results in better quality living units, this would result in happier tenants and less cost in the long run to the town.

Tom Johnson said he does not feel communication alone is enough to address the issues. The members discussed requesting all realtors inform potential buyers of Town regulations and ordinances. Tom Johnson said this would help with owners in the future, but not with current owners.

VIII. Discussion of Need for Property Maintenance Ordinance

The members discussed how to proceed with the issue of a Property Maintenance Order. After an involved discussion regarding the scope of the ordinance and the possibility of having inspections tied into the ordinance for violations, the members concluded it would be helpful to get insight from New Hampshire towns that currently have a property maintenance ordinance and see what works and what does not. Tom Johnson suggested reviewing the sample property maintenance ordinance he distributed and make comments regarding which sections seem to be appropriate for the town of Durham. Sam Flanders will do research into Towns that have an existing property maintenance ordinance and speak with the Town Administrator and the Code Enforcement Office regarding his results. The Town staff will work on getting a 2 page draft document prepared for the members to review at the next Durham Rental Housing Commission meeting.

IX. New Business or Other Business as Time Permits – no new discussions at this meeting.

X. Setting of the Next Meeting Date

The next scheduled meeting of the Durham Rental Housing Commission will be August 18th, 2010 at 4 pm in Durham Town Council Chambers.

XI. Adjourn

The July 28th, 2010 meeting of the Durham Rental Housing Commission adjourned at 5:40 pm.

Respectfully submitted by,

Sue Lucius, Secretary to the Durham Rental Housing Commission