

Approved – September 15, 2010

Town of Durham Rental Housing Commission

Special Meeting

August 18, 2010

4:00 pm

Town Council Chambers

Members Present: Chair Sam Flanders, Ann Lawing, Richard Peyser, Andrew Freedman, Paul Berton, Jay Gooze, Mark Henderson, Brett Gagnon, Kitty Marple

Public Attendees: Deputy Police Chief Rene Kelley, Perry Bryant, Deputy Fire Chief Steve McCusker, Stan Aviza, Janice Aviza, Cathy Maranhao, Katie Muth, Rob Watson, Leonard Klein, Gerald Taube, Perry Bryant, Pam Weeks, Karen Mullaney, Todd Selig, Johanna Knight

Chair Flanders called the meeting to order at 4:04 pm and welcomed the newest Commission member Andrew Freedman, the new Tenant Representative.

I. Approval of the Minutes from the Prior Meeting

Jay Gooze MOVED to approve the July 28th, 2010 Durham Rental Housing Commission minutes. This was SECONDED by Richard Peyser and APPROVED unanimously.

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

Code Enforcement Office: Sam Flanders reported for Tom Johnson who was not able to attend this meeting. Mr. Johnson reported that he is in the process of circulating a survey to 50 towns in NH collecting information on what code enforcements they have in those town. He printed a matrix by town of the data collected so far and distributed it via email to members of the Commission. Chair Flanders offered to email the matrix to anyone interested and posted a sign up sheet.

Police Department: Deputy Chief Rene Kelley reported for the Police Department. He said the issues which were discussed last month regarding a property on Rosemary Lane, have been resolved.

Fire Department: Deputy Chief Steve McCusker reported for the Fire Department. He said the Fire Department does assembly checks on Thursday, Friday and Saturday evenings in the beginning of the school year. Deputy Chief McCusker noted they may contact police to report an incident and assist in breaking up an event if needed. He said they are involved with reports of alcohol issues for medical assistance (both on and off campus).

Town Administrator: Todd Selig reported that the Town had prosecuted a case in the faculty neighborhood and were awarded a \$2475 fine, which was to be paid in payments of \$100/month until the fine was paid off. He said the defendant paid the first \$100 to the court but has not made subsequent payments. Mr. Selig said the Town is pursuing the payment that was awarded to the Town.

Mr. Selig reported that a public hearing is scheduled for September 13th regarding the Disorderly House Ordinance. He said the date was chosen to give students the chance to participate in the public hearing.

III. Comments from Commission Members

Jay Gooze asked Ann Lawing if the University supports the Disorderly House Ordinance that will be having a public hearing. Ann Lawing asked if Mr. Gooze was asking if the student body supports the ordinance, or if the administration supports the ordinance. Mr. Gooze asked if Ann Lawing herself supports the Disorderly House Ordinance. Ms. Lawing responded that she supports it.

Jay Gooze asked Richard Peyser (student representative) and Andrew Freedman (tenant representative) if they supported the ordinance and if not what their reasons are. Richard Peyser responded that he has issue with the wording regarding the dwelling unit – whether that refers to a building or single unit. He said if two dwellings in a unit are deemed to have disorderly events the fines will increase. He said he is also concerned about a roommate that was not involved in a disorderly event that may suffer the consequences (perhaps monetarily). Kitty Marple noted that the fine is to the property owner and that if the property owner meets with the Police Chief the fine can be waived. Ann Lawing said the concerns are valid; so it is good that there is flexibility built into the ordinance. She also noted that UNH has an active mediation program, which might be very helpful in this type of roommate conflict.

Todd Selig said the Disorderly House Ordinance is designed to be an additional tool and not to be used every time there is a problem at a property – there needs to be a disorderly event. He said the police are looking at this ordinance as a tool for the extraordinary situation.

Jay Gooze said from a neighborhood standpoint; if there are six houses in a neighborhood and each one on a different weekend has a problem, that is an issue every weekend. He said it is important to get the word out that the Town will be enforcing the ordinances. He asked if anyone has any ideas how to stop the actions before they occur.

Ann Lawing said last spring she began, and will continue this fall, sending out short, concise messages designed to inform students of their impact on neighborhoods. She said they do not know the impact they have and said she will continue with those messages in as many different places as she can. Ms. Lawing also noted that Residential Life every year chooses themes, and this year one of the themes is civic responsibility – being responsible to someone other than you – to the campus and the greater Durham community.

Ms. Lawing distributed to the members the informational sheet she brings with her when she visits houses (whether it is a proactive or reactive visit). She noted the one side discusses expectations and addresses those issues, the other side discusses relative ordinances/laws. She asked members to let her know if anything else should be included in it.

Jay Gooze asked if there is something at the start of the school year that all student read that this could be included with. Ann Lawing responded that to the best of her knowledge there is not one thing that all students need to read before the year begins.

Chair Flanders suggested supplying the sheet to the Landlords and having them distribute to the tenants and set expectations.

Johanna Knight said her real estate office has forms that they have prospective buyers sign saying that they know the rules of the Town. She said the Durham Landlord Association has a tri-fold with the rules that they hand out. Ms. Knight said if the documentation is sent to her, they could put it in packets to potential investors.

Mark Henderson suggested including the informational sheet in the letter the Town is sending to all residences in the core area. He said he informs his tenants who their neighbors are and informs the neighbors who the tenants are and gives them each other's contact information. He said this helps a great deal.

Andrew Freedman said it is not immediately apparent to freshmen that they are in a neighborhood and not on campus. He suggested signage might be helpful, such as "quiet entering a residential neighborhood".

Chair Flanders suggested a graphic that would indicate a quiet residential neighborhood, then publicize the graphic, and put it on signage.

IV. Public Comments – see individual sections for public comments

V. Review, Adjustment, and Consent to the Agenda

Agenda APPROVED by all members.

VI. Discussion of 57 Madbury (Noise/Disorderly Behavior)

Deputy Chief Kelly noted that 2 weeks ago there were three complaints from residents in the area. He said the police responded and dispersed the party. He noted the tenants were issued a summons for the disturbance and Chief Kurz spoke with the property owner, reporting a fruitful discussion. Deputy Chief Kelly said the tenants had a discussion with the property owner; the Police Department notified the Dean of Students Office at UNH regarding the incidence at the property and the Dean of Students Office (Ann Lawing) met with the students to address the issues. Deputy Chief Kelly reported they have had no further issues at the residence.

Jay Gooze said the police handled this situation expeditiously. He said he feels it is important for people to be proactive when an incident occurs and to check to see which property is causing the disturbance and report it. He noted that this property has had issues in the past and suggested that the owner should be aware of the problems and take a more proactive stance in choosing tenants.

VII. Planning for the Start of the School Year

a. Code Enforcement Beginning of Year Strategies

Chair Flanders reported that he spoke with Tom Johnson about his plan for the upcoming school year and how he will be proactive as far as code enforcement. He noted that the Town has been proactive; there are seven violations pending from the summer and that come fall there will be a part time person employed by the Code Enforcement office to observe code and land violations. Mr. Johnson will do patrolling himself as well and serve notices where needed and he feels the Town would take action if violations were not resolved. Mr. Johnson reported to Chair Flanders that the assistant is very good at documenting problems.

b. Durham/UNH Police Beginning of Year Strategies

Chair Flanders said two Commission members suggested to him that the police employ a strong response and action when a disorderly event occurs; including locating the host of the event and identifying underage individuals present. He said the members felt this would be beneficial to do early in the year to send a strong message that this behavior is not accepted. Chair Flanders said he forwarded these comments to the Police Chief.

Deputy Chief Kelley said it is the Police Department's strategy for the beginning of the school year through Homecoming weekend to have overtime shifts; an additional 4-6 officers on duty on Thursday, Friday and Saturday nights. He reported that both he and the Chief are out at night, there is a van and two deputies from the Strafford county department and that a booking station is set up at the police station, with civilian office staff working 9 pm to 3-4 am, and the parking officer working as a booking officer. Deputy Chief Kelley said the Sheriff's department would transport offenders, so police officers can remain on the street. He noted everyone goes through this process, even minor offenses, so there could be 30-40 people at a time being booked. Deputy Chief Kelley said in years past it was not uncommon for 100-130 arrests to occur every weekend, so there is evidence that offenses have tapered down and that is a sign of progress. He said it is their philosophy to have a show of force early in year to show seriousness. He said the staff is given instructions to address groups that look like they are forming a party and inform them that they are expected to stay in control; noise violations will be addressed and that the department has a zero tolerance on alcohol violations. He said on average there are 1000 arrests a year and the majority of those are for unlawful possession of alcohol. Deputy Chief Kelley said the department takes alcohol violations seriously. He explained that when the department reports to an incident the officers attempt to identify the source of the alcohol, find the individual(s) responsible for holding the party, identify underage individuals and make arrests. He said there seems to be a sense by some members of the commission to show an even stronger force, but the department has found that it is not effective. Deputy Chief Kelley said the

department feels their enforcement strategy is effective and the new noise ordinance will give them an opportunity to intercede earlier before parties begin to get larger and more unruly. He said the Disorderly House Ordinance, if passed, would be an effective tool also.

Chair Flanders asked the commission members to give their thoughts regarding the strategy for the beginning of the year.

Mark Henderson said he was unaware that there were that many arrested for underage drinking. He said he thought the Police Department is under a lot of pressure and he has faith in them to do a good job.

Richard Peyser said he has seen the strategy and it is effective.

Andrew Freedman said if the strategy is showing progress it is a good strategy. He said it is intimidating to see the large presence of police out on the streets in the beginning of the school year.

Jay Gooze said he would like to see if it works.

Paul Berton said as a landlord in town, he feels discretion is the student's best tool. He said they can do what they want in their own living unit as long as they are discreet about it and don't disturb others. He said he feels it is important for them to learn not to make what they are doing the landlord's business. He said when it comes to his attention; it usually involves noise and excess numbers.

Kitty Marple had no additional comment at this time.

Brett Gagnon said she is part of the UNH Weekend Walkers Group and can attest that the police are quick to respond when called and that their presence is outstanding.

The members discussed the UNH Weekend Walkers Group: Jay Gooze asked how long the group has been active and if the group was involved with the large groups of people walking on Madbury Road last year. Ann Lawing responded that it has been active for 8-9 years. Brett Gagnon responded that the Walking Group did encounter the people on Madbury Road and if the opportunity arose, would speak to them. She cautioned that they are not the Police, and if they do not feel comfortable they will not speak to a group, they may phone the Police to report a possible incident or to prevent an incident from occurring. Jay Gooze said he did not feel any real benefit from this group last year and asked if they felt they were effective. Brett Gagnon responded that she feels it is important for the students to see the University administration has a presence on the streets at night. Deputy Chief Kelley praised the Walking Group and said they are effective, saying he can site examples of how members of the University staff have gone to fraternity houses or apartment complexes at the beginning of the evening and it had a calming effect. Deputy Chief McCusker said he has found the University staff Walking Group to be very effective.

Ann Lawing said she has observed the Police strategy and believes it is effective. She cautioned against making anyone an example, as this may backfire on the Town. Ms. Lawing said the Office of Residential Life has a similar strategy on campus; they are out on campus, being visible, and able to provide the students with information about what is expected of them.

Sam Flanders said he feels the Police Department is very good and that they respond quickly. He said the question is always how to get the message out in the beginning of the year that problems are unacceptable and have a way to communicate that there will be consequences if such behavior continues.

Ann Lawing said in the past, and they would like to continue this practice, the University has collaborated with the Durham Police Department. She said people are not shy about letting the University know when there are problems. She distributed a sheet of information that she delivers when she is visiting a property that has been identified as being a problem. Ms. Lawing said her visits are to make the tenants aware that the University, as well as the Police Department, are aware of what occurred and are being observed. She said she has found that students have been receptive. Ms. Lawing said she feels it is important for students to see that a University Official has an interest in their behavior, even if they are off campus. She noted that the University could take a student through the conduct system if they feel it is appropriate.

Richard Peyser said he has heard students speaking about Dean Lawing's visit to them and what an impact it had on them.

Chair Flanders said he and other members of the Commission do not know what the Police Department faces every night. He asked if the department would be agreeable to members riding along with an officer. Deputy Chief Kelley said any member would be welcome. Chair Flanders said he would be doing this in the near future.

Chair Flanders asked for public comments regarding the Police strategy for the beginning of the school year.

Pam Weeks asked how many students are expelled from the University, due to arrests for underage alcohol possession.

Ann Lawing responded that a list of students involved in such offenses is made available to the appropriate dean/directors. She said the student is required to meet with the Dean of their college to discuss the incidence, the report will go on the student's record (which could limit the students privileges), the student will be required to undergo an alcohol counseling program (at their cost) and they are informed of the consequences if any further incidences occur.

Pam Weeks asked if this information is available to incoming students. Ann Lawing responded that it is available through the Residential Life Staff, at orientation sessions, posted on dorm bulleting boards, sent out in electronic media and communications throughout the year.

Judge Taube asked what demographic is responsible for most of the violations and if there are many repeat violators. Deputy Police Chief Kelly responded that freshmen and occasionally

sophomore students incur the majority of alcohol violations. He noted that there are very few repeat offenders.

Leonard Klein asked if the property owner where an arrest takes place is notified, how they are notified and if there is a public record of the arrest. Deputy Chief Kelley responded that there is a public record of the arrest, the property owner is notified, usually by email and a notice is sent to the parent of an underage individual.

Leonard Klein asked what the consequences are for an adult present. Deputy Chief Kelley responded that the adult present could be arrested for facilitating an underage drinking party. Paul Berton asked what the number threshold is for facilitating an underage drinking party. Deputy Chief Kelley responded that there must be five unrelated persons underage and one in possession of alcohol.

Perry Bryant said when he was a member of the Rental Housing Commission they would talk about strategy every year. He noted that most of the professionally managed properties in Town have worked for years with the Durham Police Department to form their current strategy. He said most of the focus has been where the core apartments are located; however, now problems are occurring in the neighborhoods. Mr. Bryant asked if the strategy has changed any to accommodate that. Deputy Chief Kelley responded that the Police Department will be paying closer attention to those properties that from experience have had issues – they will be getting a lot more of the department's attention.

Perry Bryant asked if any thought has been given to strengthening the penalties that can be imposed for alcohol violations; such as more intensive alcohol counseling and paying for that counseling. Deputy Chief Kelley responded that unlawful possession of alcohol is not a misdemeanor, it is a violation for the first offense with a \$300 fine, the judge also has the discretion to suspend the driver's license and make an annotation of their motor vehicle record until the age of 21. He said for a second offense it would be considered a misdemeanor, with a \$600 fine, and an automatic loss of license for 30 days. He noted the Town sets the amount of fines for town ordinances.

Cathy Maranhão said that she incurred a noise violation for a large gathering at her property and it took 10 days to receive the notification. She asked if notification could occur quicker. Deputy Chief Kelley responded there is one individual that sends out those notices, and if that person is not in, there can be a delay in sending out the notices. He noted there is room for improvement in this area.

Gerald Taube said the Town needs to be careful how far they take strong enforcement since it can become counter productive. He noted the Town does not want it to appear that they are overreacting. He said the UNH alcohol awareness program is effective since there are very few repeat offenders. He noted the problem exists with the new freshman class every year – that needs to be educated. Judge Taube said he is impressed by the professionalism, commitment and balanced ways of the Durham Police Department.

c. Neighborhood Expectations for Tenants in Single Family/Duplexes

d. Media/Email Communications – Coordinating the Message

Todd Selig noted that commission members requested public relations regarding actions in Town. He said he sent an Opinion Editorial Letter to the Union Leader, but it has not been published. Mr. Selig said he has now sent the letter to The Foster's Daily Democrat and received a call from one of their reporters, so there may be a story in the paper regarding Rental Housing issues.

Mr. Selig reported that the office has received mailing labels from the Realtors associations and the office is in the final stages of a letter that will be sent to all realtors to reinforce the "three unrelated issue", the court awarded order and others items in the works regarding housing issues. He noted that the office will also be sending out a letter to all residences in the central core (legal mailing address of property owner) as well and that a recent broadcast on the list server regarding housing actions has prompted calls from individuals involved with rental property who feel they are being singled out.

Mr. Selig asked Ann Lawing if she would like to co-author a letter to The New Hampshire this year, similar to the letter from last year. Ann Lawing responded that she would be interested in this.

Mr. Selig asked for an update from Ms. Lawing on the Amnesty Program on campus. He noted he has received some email traffic regarding this topic over the last two months. Ms. Lawing will update Mr. Selig on this program.

e. Other Suggestions / Action Items – none discussed at this meeting

VIII. Continued Discussion of Rental Housing Registration Ordinance – not discussed at this meeting

IX. Continued Discussion of Property Maintenance Ordinance

Chair Flanders said he phoned several towns to inquire what they did as far as property maintenance and for the most part the message was property maintenance is a difficult issue. He reported that he spoke with Kevin Schultz, code enforcement officer for the town of Hampton (including Hampton Beach). He said they have 5698 rental units in Hampton and in 1997 began a mandatory inspection program for rental housing – every unit is required to undergo an inspection prior to receiving a certificate of occupancy. Chair Flanders said he was told there was fierce opposition to this in the beginning – now in 2010 the landlords who do a good job of maintaining their properties like having the rental housing inspections because it allows them to be on a level playing field with subpar landlords. He explained that the Town is in the second phase of inspection (each inspection cycle is ten years) – Kevin Schultz feels the best cycle would be five years. Chair Flanders reported the fees are \$35 for the first inspection (per property owner – not each property) and re-inspections are \$25. He said the Town of Hampton does not have a property maintenance ordinance and that the code enforcement officer prefers to "use a carrot not a stick" and finds this approach to be in their best interest and usually

successful. Mr. Schultz reported to Chair Flanders when that approach is not successful the issue is passed on to the Town Council who can vote to bring the property owner to court.

Leonard Klein commented that he was in Hampton and the rental properties in the neighborhood he was visiting were in very good condition.

Richard Peyser asked if any college towns have mandatory inspections. Chair Flanders responded that none of the college towns he has had a response from has mandatory inspections. He reported that Plymouth does not have much in the way of local ordinances and that Keene has a sophisticated code enforcement office and a local property maintenance code.

Chair Flanders noted that some of the bigger towns/cities have minimum standard codes for rental housing to ensure tenants are not living in slums. He said Dover has a Housing Authority that does inspections and this may be an area the Commission may want to investigate further to see what might be applicable in Durham.

The members briefly discussed RSA 48A, noting that it refers to minimum housing standards.

Chair Flanders said he felt a Property Maintenance Ordinance would be the responsibility of the Town Council if it were to be applied to all properties in Durham and should not be defined by this Commission. He said the Commission could make a recommendation to Town Council, if we feel it is appropriate. Chair Flanders said the Code Enforcement Office reported that the problem is not restricted to rental properties. He said this could be very extensive issue and may require a subcommittee.

Jay Gooze said if as a Commission, we decide that is the way to go, he would be happy to bring the issue to the Town Council. He said he agrees with Chair Flanders and believes it is a town wide issue that should not be applied to only rental units.

Judge Taube said he is concerned that this group can make specific recommendations to the content as it applies to the rental-housing situation that the Town Council may not be aware of. He said he is concerned that the issue could fall by the wayside if the Commission does not make a recommendation.

Chair Flanders said there is interest on the part of the Town Council regarding this issue.

Jay Gooze said he will request that the Property Maintenance Code be placed on the next Town Council meeting agenda.

X. New Business or Other Business as Time Permits

XI. Setting of the Next Meeting Date –

The next meeting of the Durham Rental Housing Commission will be held on Wednesday September 15th, 2010 at 4 pm in Town Council Chambers. The October meeting is currently scheduled for October 13th, 2010.

XII. Adjourn (5:30 pm) – Chair Flanders thanked the public for their large turnout!

The August 18th, 2010 meeting of the Durham Rental Housing Commission adjourned at 5:35 pm.

Respectfully submitted by,

Sue Lucius, Secretary to the Durham Rental Housing Commission