

Hull Board of Selectmen

Minutes

February 18, 2014

A meeting of the Hull Board of Selectmen was called to order at 7:00 p.m. on Tuesday evening, February 18, 2014 at the Hull High School, Exhibition Room, 180 Main Street, Hull, Massachusetts.

Present: Kevin Richardson, Chairman, Domenico Sestito, Vice-Chair, John D. Reilly, Jr., and John C. Brannan, Members. Also present were: Philip E. Lemnios, Town Manager, James Lampke, Town Counsel and Karen Morgan, Recording Secretary.

Absent: Christopher Olivieri, Clerk

The Board of Selectmen met with members of the Planning Board and members of the Board of Health to discuss with the public the proposed bylaw for short term rentals. Following that portion of the meeting, the other Boards closed their meetings and the Board of Selectmen continued with its meeting.

7:06 p.m. Members of the Planning Board and Board of Health was called to order

Lemnios spoke to the public about the proposed bylaws. The goal is to make it simple and approachable to have short term rentals and to seek public input of the proposed bylaws. There will be another public hearing of this nature on February 19th to discuss what was addressed this evening. The BOS will take the information from this meeting and other input from other Boards, committees and citizens and will have the opportunity to make those changes as they feel appropriate.

The key points that are on the proposed bylaws are the following:

- A. Article IV, Use Regulations Section 49, - Residential dwelling unit rentals: Rentals of dwelling units of seven (7) days or more shall be permitted in accordance with the provisions of this bylaw in all zoning districts. Rentals of less than seven (7) days are not presently a permitted use in any residential zoning district and shall remain prohibited under this bylaw.
 - a. Purpose. The purpose of this bylaw is the help protect the health, safety and welfare of the citizens by minimizing adverse impacts from short term or other residential rentals in areas permitted residential use and to promote and support property ownership and the community's tourist economy.
 - b. Permit requirements. All properties must comply with all applicable laws, rules and regulations, including but not limited to obtaining a Certificate of Occupancy from the Board of Health for each residential rental dwelling unit. No owner, manager or tenant shall rent, lease, license or offer for rent, lease or license any building or portion thereof to be used for human habitation without first having been issued a Certificate of Occupancy as required under Chapter 113 of the bylaws of the Town and complying with all other applicable laws, rules and regulations.

Selectmen Minutes; 2/18/2014

Page 1

- c. Short term residential rentals prohibited. The renting, letting or licensing for any form of compensation by the owner or occupant of a residential dwelling unit to another party for the exclusive use of said dwelling unit for a period of less than seven days is prohibited.
- d. Number of occupants allowed. The maximum number of occupants allowed in an individual dwelling unit shall not exceed the number of occupants permitted under the State Sanitary Code. The Health Department shall determine the maximum number of occupants allowed in each individual dwelling unit in accordance with the State Sanitary Code.
- e. Signs. There shall be no exterior signage advertising the availability of the dwelling unit to the public.
- f. Parking required. All parking associated with a dwelling unit shall be regulated as per the applicable parking regulations for the Town of Hull.
- g. No grandfathering or legal non-conformity created. Rental of property for residential occupancy for a period of less than thirty days are not a permitted use in residential zoning districts under the zoning bylaw in effect prior to the enactment and effective date of this bylaw amendment.
- h. Applicability. If any provision of the Bylaw imposes greater restrictions or obligations than those imposed by any general law, special law, regulation, rule, ordinance, order or policy, the provisions of this Bylaw shall control.
- i. Severability If any provision of this Bylaw is held to be invalid by a Court of competent jurisdiction, then such provisions shall be considered separately and apart from this Bylaw and the remaining provisions, which shall remain in full force and effect
- j. Penalties. A failure to comply with the provisions of this bylaw shall be subject to a fine of \$300.00 for each day of non-compliance. These provisions may also be enforced under the town's non-criminal disposition bylaw/or by any other enforcement method under the law.
- B. And further to amend Chapter 1 of the Code/Bylaw of the Town by inserting the following in the Table "Provisions Subject to Non-Criminal Disposition" – Cite Chapter ____ Residential Units; (Enforcing Person) Code Enforcement Agents; Penalty, First offense – warning; Second and Subsequent Offense \$100.00 each and
- C. To see if the Town will amend the Code/Bylaws of the Town as follows:

(1) Amend c 113 by adding the following to section 113-5. Violations and Penalties

A Certificate of Occupancy so issue may be suspended or revoked following a hearing with at least ten (10) days' notice upon a finding by the Board of Health that the premises or portion of the premises does not meet the requirements of the State Sanitary Code and any other applicable laws, rules and regulations and/or is found to have been operated in a manner that does not (a) protect members of the public from disruptive conduct, from criminal activity, or from health, safety or fire hazards (b) prevent an unreasonable increase in the level of noise in the area caused by activity on the premises or caused by persons entering or leaving the premises; or (c) prevent an unreasonable increase in the level of pedestrian or vehicular traffic in the area of the premises or an unreasonable increase in the number of vehicles to be parked in the area of the premises. A finding that the enforcement conditions occurred at the premises or as a result of the rental of the premises shall be grounds for the suspension or revocation of the Certificate of Occupancy.

(2) By adding a new section as follows:

Section 113.7. Local contact person. All owners of dwelling units offered or used for lease, license, or rent shall designate a local property manager. The local property manager shall be available 24 hours a day to respond to Town, tenant and neighborhood questions or concerns. Property owners may designate themselves as the local contact person.

- (1) The name, address and telephone number(s) providing for 24 hour contact capability of the owner and local contact person shall be submitted to the Health Department as part of the application for a Certificate of Occupancy. The name, address and telephone number(s) of the owner and local contact person shall be permanently posted in the rental unit in a prominent location(s). Any change in the ownership or local contact person's address or telephone number shall be promptly furnished to the Health Department
- (2) If the local contact person is not known to the complaining party, is unavailable or fails to respond, the complaining party may contact the Police Department. The Police Dept. will attempt to reach the owner or local contact person. It shall be a violation of this Bylaw for the owner or local contact person to fail to respond to a call from the Police Dept. or other Town departments within 12 hours.

Questions and Comments from the audience:

J. Brannan, Selectman – Asked how frequent does one have to file for a Certificate of Occupancy? Lemnios answered that the CO would still require an annual filing. That is what is presently required and it would not change under the proposal.

Joyce Sullivan, Director of Public Health – A dwelling unit has to have at least 150 sq. ft. of floor space for its first occupant and at least 100 sq. ft. for additional occupants. For sleeping purposes they need 70 sq. ft. of floor space for each room and any additional person would have to have 50 sq. ft.

J. Lampke added that the State Sanitary Code is not a new legal requirement, this bylaw does not create a state sanitary code, that document has been in the existence for a number of years and has been utilized by the Board of Health for the CO code for many years.

Peter Lombardo, Building Commissioner – The Building Department and the Health Department work in conjunction on these inspections. The Health Department is responsible for the inspections, when they go in and they find items that may relate to a building code violation or an electrical violation, they will pass it on to Building Department and which will follow-up should they arise. There are minimum standards of occupancy for size of rooms, etc.

Debrah Gladstone, 117 Beach Avenue commented as follows– She read the proposal and to her it seems that the proposal for the most part is that people are going to do what they are going to do in terms on rentals. The guidelines are loosely defined. Regardless of the impact of the neighborhood, she wonders if it's in the best interest in the Town of Hull and the neighborhoods. The proposal loses sight of the

vision and putting a financial gain on the community. She feels the proposed bylaw is short-sighted and sometimes self-serving. As homes go on the markets, the real estate brokers recognize a huge financial impact on it themselves. She would like to see the language in this document that protects us. Things get out of hand with weekly renters, the only recourse we have is to call a contact person and she is wondering, if the public is supposed to look on the porch to find their name. This is a potential disaster as it pits neighbor against neighbor. Zoning bylaws already exist in the Town of Hull and they should be honored and upheld. There is talk about many residents leaving this Town and leaving this chaos behind and the Town will be redefined.

Louis S. Gainor, 123 Beach Avenue commented as follows – Most of these vacation homes are near the beach. He fears that these weekly rentals are going to ruin the value of his single family home. He thinks that if the Town wants to put a limit of how many people can have weekly rentals, maybe that can be answer. He also suggests that maybe the Town should restrict it to an owner occupant as a primary resident.

Charles Schaffer, 121 Beach Avenue commented as follows – He said he had quite a few concerns. He doesn't think this solves the problem. He said he will not go into the story of the bachelor party, etc. He just doesn't think that this will do anything to prevent that. On Sept. 3rd, he sent an email to Town officials addressing that if you are going to do this, how will it affect zoning in this Town. He pointed out the Bermaken Hotel and there are all kinds of guidelines with management, etc., there are hearings, licenses that are issued. Right now he said that the house across the street from the Bermaken Hotel is advertising weekly rentals for this current summer for 17 people. He feels that is a rooming house without having to have the license for a rooming house. Also, he asks that if this is to occur in a single family residential area, why is there not language saying that weekly rentals can only be rented to single families. The problems occur with the high school, college reunions, bachelor parties. You can eliminate that to say that the rentals are only with single families. You need to define a number of occupants to the bedroom. Forget all this with the state sanitary code and measuring square footage- you are making the process way to complicated and you need to come up with a number. Part of the problem that many of the people who rent in Hull have a lot of company. They bring over 20 people on a Saturday or Sunday and if you bother to do some checking with other communities and googling transient rentals in Sonoma Valley, CA, you'll find that there are limits to the number of guests that can take place in residential areas. He is concerned about how this will be enforced. He feels there are overworked Town officials.

Mark Gladstone, 117 Beach Avenue commented as follows – He would like to know whether the zoning bylaw committee had meetings and or recommendations. Lampke answered him that he does not believe the Zoning Bylaw Committee has looked at this yet as the process did not reach that point yet. The purpose of this document is not to take away the responsibility of the input of other Boards but to start with a working document. Gladstone continued by stating that the Zoning Bylaw Committee must study any amendments to the zoning bylaws and make recommendations to the Selectmen and Town. B. Kelly (Assistant Building Commissioner) stated that with the bylaw as proposed and the study being done the Planning Board and the Bylaw committee will make a recommendation of the bylaw presented, then it will go to the Planning Board and then there will be a hearing on it.

J. Reilly – Said that while he understands the role of the zoning bylaw study committee, there is nothing in law that prohibits the BOS from making proposed changes of the zoning bylaws. This says clearly that this is a draft. It is allowing the people in town to give their opinions before changes take place. He looks forward to the opinions of the Planning and Advisory Boards. He said that we need something to start with for a discussion.

Lemnios – We have until now and to the first Monday of May to discuss this issue to craft or change it. This is a starting point of discussion.

M. Gladstone commented further as follows – It (the zoning bylaw) speaks of regulating height, restrictions and numbering. The bylaw goes on to say that anything that is not specifically allowed as a use of any particular zone is prohibited in that zone. That's a quote from the zoning bylaw. It terms of what is being proposed here for rental use on a weekly basis is prohibited in a residential zone. Not being specifically prohibited; is prohibited. He feels the Town is proposing for people to come in, take a single family house, rent it out through a period of no less than a week and that is accepted harmoniously. There have been hearings on two particular properties where Mr. Lombardo issued a cease and desist order on two properties for conducting what he felt was a commercial activity in a residential zone. Both were heard at length by the Board of Appeals and determined there were transient activities as defined by Mr. Lombardo. He feels that what the selectmen are saying is let's ignore what the whole process has been conducted by the Building Commissioner and the ZBA and throw that out of the window as that process does not count. He feels the Town needs to give some credit to the ZBA for listening to the laws. He feels that what came out of those hearings and what will happen if the Town enacts this bylaw is that there will be bachelor parties in these houses, loud noises, trash thrown all around the properties, beer cans/bottles thrown all over. The fabric of a single family residence will get eroded very quickly, brokers are going to call up people when a property comes for sale and you can pack it with 30-40 people, in an 8 bedroom house. He feels this will result in encouraging people to come here on a weekly basis to party and the neighborhood will be dammed. He claims that the police have been called to these two properties and didn't do anything. He asked how would people find where this owner or local contact person is. He said there were no problems in the last 26 years. This bylaw has no restriction in terms of times, hours, parking specifics, numbers of people, activities that can be conducted and nothing relative to fire protection.

James Canavan, 116 Manomet Avenue, commented as follows Regarding the CO and the initial inspection that there might be issues that occur, he asked if that preclude a CO or would it result in a conditional CO? For example, he suggest that we assume that someone will start to rent in June and call for a CO in the last week of May and the Town finds a number of different issues, will they have to turn to their renters and say they can't come in? Sullivan answered that it would depend if it was a ripped screen or something like that. If it's a life safety issue, the Town will not issue a certificate until the issue is resolved. They would be given a period of time to correct it depending on the nature of the problem. He asked about the revocation of the permit and about being able to schedule a hearing and is there a standard for a CO. Sullivan answered that it usually depends if there are violations and your certificate is not valid anymore. Lemnios stated that the way this is drafted is at the discretion of the Board of Health. Canavan also suggested having a life safety inspection to be issued.

Richard Cochran, 108 Manomet Avenue, commented as follows – He lives next door to a property that has 9 bedrooms. One of the things he was concerned about is the language of the sanitary code but if you have a 9 bedroom home, there are many hazards. There are most weeks 8-12 cars that are parked there and never leave for the entire week. There aren't 10 people that drove 10 cars; there is at least 20 people or more living there. One of the concerns in relying on the health and safety code is with 9 bedrooms, you can put 2 people easily and be within the code, He believes you can put at least 4-5 people in the much larger bedrooms and when you start adding up the numbers, you are up to 25-30 people or more that can legally under the sanitary code live in that house. If you don't think 30 people living for one week all week long in a house is going to change the fabric of the neighborhood and those people leave on a Friday and then another 20-30 people come in after them, this is a major issue. He feels the Town needs to be looking at the issue of people being related. He has a concern because that will become hard to enforce.

Lemnios summarized the issue so far: consider the limit the number of renters, owner occupy issues came out, rent only to single families were suggested, define the total number of occupants for a 3 or 9 bedroom home, parking has come up, parking regulations, impact to the Town, disturbance of the peace, tracking the tax records in Town.

Ed Della Valle, 23 Kenberma Street, commented as follows– About 6 years ago, he bought his house. He had grown up in Weymouth and wanted a summer cottage so he and his wife bought it and fixed it all up. They rent to about 7-8 different weekly rentals. This past summer, they stayed through July-Aug. He can sympathize with the problems with the beach parking. From his perspective; it enabled them to own a house in Hull. They have taken care of it and the neighbors all like it. In the 6 years they have been renting, he said they had 0 problems and 0 calls to the police. If the Town takes away the right to rent it, he thinks that is unfair and everyone knows that it's been going on for many years. He does sympathize with the problems. He thinks the problem is that they are not screening who they are renting to.

Paul Schneider, Manomet Street, commented as follows – He feels that the group that has spoken has only focused on 1-2 houses that created the problem. This isn't typical of all houses that are rented on a weekly basis. He doesn't understand why there is a need to have something like this in place for the whole.

P. Lombardo – There have been a lot good constructive comments made and he feels the committee will take a lot of this into consideration. It has been discussed in the staff meetings to have the landlord provide a floor plan to verify the size of the rooms. The Town might have to do that in certain circumstances and if the floor plan doesn't comply with the inspection, there has to be adjustments made with the number of people. Regarding the fire dept., he said that the inspectional services works closely together with all departments and has a good crew with fire prevention and they are in the Building Department office and everyone works in a unifying manner. If there are any issues related to fire issues, they do not hesitate to issue orders to make any corrections.

Mark Abatuno, 129 Newport Road, commented as follows – He is a realtor in Town and a resident in the Town. he does care about who he would rent to or sell to. He feels that the Town needs some sort of middle ground here; we can't ban rentals that have been going on for hundreds of years here. It adds values to the Town. There are two sides to every issue. He suggests that we should establish how many cars can be parked on that property.

David Clinton, Chair of the Advisory Board, 53 Gosnold Street, commented as follows – He is not looking for an answer tonight but these questions are what he is going to have when the Advisory Board takes this matter up. He asked how many active cases do you get to apply for the CO? J. Sullivan answered that the Town pretty much knows which ones are summer, and they have currently 1200 rentals, that can be annual or summer. Clinton continued by asking how many new first time applicants do we expect in the future if this were to pass. J. Sullivan said that many people do not know about the proposed bylaw. Once they are on the list or the Town finds out and sees a rental ad, most people are compliant. There is a group out there that has been renting and don't know about it or live in another Town, but most people once the Town knows they are renting, and sends them the applications, they are usually compliant.

9:26 p.m. – The Planning Board and Board of Health adjourned

AT THIS POINT, THERE IS A FIVE-MINUTE RECESS

TOWN MANAGER

Grant Application for Gun Rock seawall

In an email dated February 18, 2014 from Conservation Administrator Herbst to Lemnios re: Grant Support, she wrote that the grant application will be for approximately 50K, 25% of which the town will match. The 50K would get the Town through design and permitting the seawall and revetment. The goal is to be in good position to apply to the same state seawall grant program that funded Stoney Beach last year.

Motion - Brannan To move that the BOS go on record as supporting the Town's application to the Office of Coastal Zone Management Coastal Community Resilience Grant Program

Second - Sestito

Vote - Unanimous in favor

CORRESPONDENCE

Read aloud by Richardson correspondence from Pauline Rowe – re: Citizens' Petition

In a letter dated February 1, 2014, Rowe, on behalf of the petitioners enclosed a citizens' petition asking for the BOS' consideration of a referendum question (Should the Hull School Committee and the Hull Capital Planning Committee be instructed to conduct an independent Space Needs Study of the Hull Public Schools in calendar year 2014 to determine the feasibility of consolidating students into two

Selectmen Minutes; 2/18/2014

Page 7

schools and turning the third school back to the control of the Town of Hull for non-educational use?) for inclusion on the May Town Election Ballot.

P. Rowe commented as follows— She feels the taxpayers want to have an objective independent fact based evaluation on the three schools to be paid for by the Town of Hull. She has been a resident for the past 11 years and at least the past 5 years she has interacted with a lot of people and there has been an awful lot of talk what she calls “under current type of talk” meaning not direct communication amongst people. She feels there are a lot of unanswered questions that people have. Some people are aware that in the last number of years, the student enrollment in Hull has been progressively declining and the questions that people are talking about is that they want answers and want to have a dialog with the schools and departments in and town to get questions answered. The only way to have a healthy dialog is face to face and to have an independent assessment done of the three schools.

J. Reilly – It will need to incorporate educational programs, how much of a savings, the Town’s expenses on capital improvements, etc.. P. Rowe said that there are many facets to this issue.

C. Bowes – asked that prior to this going to the ballot, what firm or organization will conduct this independent study? Who would be involved in it? Richardson said that it’s a timing issue because in general he would support a petition because it’s the right of the people but at the same time the School Committee will schedule their meeting the first week of March. There is more than one component; it’s not just a space issue. His concern is to look at the feasibility but at the same time, it can be detrimental to students.

Motion - Brannan To support the referendum of the petition for the May 14 ballot
Second - Reilly
Vote - Unanimous in favor

Read aloud by Richardson correspondence from Bob Cambra – Seeking approval for annual HYFA carnival

In an email dated February 14, 2014 from Cambra to Richardson re: the HYFA carnival, he sought approval for the annual carnival on the HRA land that will be open 6/18/14 with a possibility of having fireworks on 6/21/14 with a rain date of 6/22/14.

Motion - Reilly To approve the annual HYFA carnival and waive inspectional fees
Second - Sestito
Vote - Unanimous in favor

Richardson requested a Motion to move to Executive Session to discuss strategy with respect to litigation and that I, as Chair, declare that an open meeting may have a detrimental effect on the negotiating position of the body; to comply with or act to the authority of the Attorney-Client Privilege,

to consult with legal counsel or obtain legal advice pursuant to the Attorney-Client Privilege and will not be reconvening into open session.

Motion- Reilly, so moved

Second: Sestito

Vote: Unanimous in favor.

The following subject will be discussed during Executive Session:

1. Cope-Allen Claims

Roll Call Vote: Aye, Reilly, Aye Richardson, Aye, Sestito, Aye Brannan.

The Selectmen moved to Executive Session at 10:02 p.m. and will be not be reconvening into open session.

Recorded by Karen Morgan

Approved: April 8, 2014

The following documents were included in the Board of Selectmen's packets or were presented during the meeting and are available in the Board of Selectmen's Office upon request:

1. Agenda for the February 18, 2014 Meeting
2. Draft Zoning Bylaw amendments
3. Email from Cambra to Richardson dated February 17, 2014 re: HYFA carnival
4. Email from Herbst to Lemnios dated February 18, 2014 re: grant support
5. Letter from Rowe to Richardson dated February 1, 2014 re: citizens' petition
6. State Sanitary Code guidelines