

Hull Board of Selectmen

Minutes

March 11, 2014

The meeting of the Hull Board of Selectmen was called to order at 7:30 p.m. on Tuesday evening, March 14, 2014 at the Hull High School, Exhibition Room, 180 Main Street, Hull, Massachusetts.

Present: Kevin Richardson, Chairman, Domenico Sestito, Vice-Chair, Christopher Olivieri, Clerk, and John C. Brannan, Member. Also present were: Philip E. Lemnios, Town Manager, James Lampke, Town Counsel and Karen Morgan, Recording Secretary.

Absent – John D. Reilly, Member

Richardson read a press release about the Police Department that will be issued on March 12, 2014. The BOS and the Hull Police Dept. are aware of certain allegations as outlined in a Civil Suit filed on March 3, 2014 in the Plymouth Superior Court by a former Hull police officer. The allegations are against current and former members of the Hull Police Relief Association, Inc. and the Hull Police Associates, neither are which are affiliated with the Town of Hull. Both organizations have members who are current and former Hull Police Officers. The BOS and the Police Dept Admin. take these allegations very seriously and have requested the Office of the AG of MA to do a thorough investigation. The BOS and the Police Dept. Admin. Have pledged full cooperation with the AG's office during the course of this investigation. As a result of the allegations, an active duty police officer of the Hull Police Dept. has been placed on paid administrative leave with full reservation of all rights and without prejudice. The Town will provide further updates as the situation dictates.

APPOINTMENTS

7:30 p.m. – Discussion of Short Term Rental Bylaw

Lampke read from the most up-to-date changes to the draft.

Correspondence was received from J. Canavan and N. Henry-Pierce regarding the proposed zoning by-law changes.

Canavan stated in his email that a special permit could have the effect of precluding a "legally non-conforming use" and give the Town the opportunity to "test out/pilot" such a significant change to the existing by-law structure. A changing to less than 30 days is in essence eliminating an enforcement mechanism in place.

Henry-Pierce stated in her email that the current portrayal of this issue as being limited to two isolated cases is not accurate and that it is more widespread. She feels if this bylaw passes, the situation will become the norm.

Lampke stated one way to address this issue is to make the transient rental subject to a Special Permit and if a special permit is issued under the zoning law by the ZBA, the Planning Board or the BOS and certain standards can be in place to address the standards in this bylaw. A Special Permit can be limited as with a certain time (i.e., 2 or 3 years) and the person would have to come back for a renewal and at

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that point it can be assessed. Another way is to provide in the accessory use section that it is subject to a business permit issued by the BOS so you would then have to pass the general bylaw that the BOS can issue business permits and thus be able to conduct the business of transient rentals for 7-30 days. They would have to obtain a permit from the BOS and the BOS can impose several conditions, including a limitation of time like the Special Permit and in the future, if the Town wanted to change this, they can take the provision of the business permit out and once those places have no business permits, then the use will not be continuing.

Lampke spoke of the proposed changes/additions:

To Section A, Article IV – Use of Regulations Section 49 – the following text was added: “residential” zoning districts. Lampke stated that for now for this year we are trying to deal with those districts that are of residential use. During the winter, people may want to study to see if specific change should be made in non-residential districts to permit rentals of less than 7 days. Also added: “dwelling unit shall mean a single unit providing complete, independent “residential” living facilities.

To Subsection b. Permit Requirements – “All properties must comply with all applicable laws, rules and regulations, including but not limited to applying for and obtaining a Certificate of Occupancy from the Board of Health for each residential rental dwelling unit.” Lampke stated that presently to have your property legally rented, you need a CO and thus this is not a change from current requirements.

To Subsection c. – added: “No additional rental is permitted within the seven day period.” Lampke stated that the original language was not clear and the language was changed and it refers to a situation where a person rents a property for 7 days and stays for 3 and then leave and then the owner of the property may want to rent it out for the remaining 4 more days of that rental.

To Subsection g. – added: “Rental of property for residential occupancy for a period of less than 30 days is not a permitted use in any zoning districts under the zoning bylaw in effect prior to the enactment and effective date of this bylaw amendment unless otherwise lawfully licensed.” Also added: Rentals of 30 days or more remain legally permitted subject to any applicable law, rule or regulation.” Lampke said we are making it clear that in other areas it is not permitted unless it was legally in placed before.

To Section C, Subsection (1) Violations and Penalties – added: “A COO so issued may be suspended or revoked following a hearing within at least 10 days’ notice upon finding by the Board of Health based on evidence from inspectional services and others.” Also added: “Nothing contained herein shall preclude enforcement of applicable laws, rules and regulations.”

To Section C, Subsection (2)(A) – added: “Owner and Local Contact Person” “local contact person available to respond in person within 2 hours.” “Property owners may designate themselves as the local contact person if they can respond in person within 2 hours.

To Section C, Subsection 2(B) – added: “The owner of the property shall also promptly provide immediate abutters and abutters to immediate abutters the owner’s and local contact person’s name, address and telephone numbers, and promptly update such information if changed.”

To Section C, Subsection 2(C) – added: “The Town encourages people to contact the local contact person or owner if there are any issues or concerns.”

At the end of the proposed bylaw "Or Take any action relative thereto, including by not limited to motions that may address less than or more than 30 days or 7 day periods." . The language ", including by not limited to motions that may address less than or more than 30 days or 7 day periods" is intended to avoid disputes as to whether a motion or amendment is within the scope of the article; this would make the article broader and facilitate changes.

Questions/Comments from the Audience:

Q. *R. Kanet – Asked when would the first sentence under (j) with \$300.00 each day for non-compliance and then on page 3 where it says subsequent offense \$100.00 each day take place. Also do the Code Enforcement Agents include the Building Dept. and the Health Dept.?*

A. *Lampke – In addition to Building and Health, Police and Fire would be the enforcement agents, the BOS would delegate to those other folks who are trained code enforcement people.*

Paragraph j, is a fine that is recoverable through a criminal process. The Code Enforcement agents would have to go to the District Court and file a criminal complaint, then a hearing would take place. The Clerk would determine if the facts are justifiable. Then the person would have to be arraigned and then a pre-trial conference leading up to a trial. This is a more involved process for the Town and a more serious process for the offender. It's at the discretion of the Code Enforcement agents to make a determination of which process to utilize, depending on the circumstances. They can prescribe the ticket process (non-criminal disposition) and the person can pay the fine or contest it. It is a much less involved process for the Town and the offender. These are two different tools that the Code Enforcement have to enforce different bylaws.

Q. *M. Gladstone, 117 Beach Ave. – Asked about an offending house and the abutter having a problem (Section 113.7 (A) having to call the owner or the agent of the owner and someone has to respond in two hours.*

A. *Lampke – That first paragraph identifies who the people are that are supposed to be designated to deal with the problems. The owner or the local contact person and the owner or the local contact person is supposed to be someone who can respond in person in 2 hours. It does not require someone to only contact the owner or the local contact person. Someone can contact the police, fire, Board of Health to make a complaint.*

Q. *M. Gladstone – Asked if under 2C, if the agent or owner fails to respond in a 2 hour period then an aggrieved citizen may call the police and the police can contact the owner or the agent and if they fail to respond within 12 hours, certain enforcement action will happen. He was reading it to mean that a complainant has 2 hours to get the owner or agent there before they can call the police.*

A. *Lampke – You can call the police anytime. You need to document you complaints. A. Lemnios – We need to clean that language up so that people do not have the impression to not to be able to call the police.*

Q. *Bea Raftery – Asked whether this is necessary for properties that are owner occupied. She rents to her sister-in-law who is handicapped and needs someone there to help her. She finds this evasive. I don't do that to my single housing neighbors. She was concerned about possibly having to send out letters to 25-30 households every time her helper moves out.*

A. *Lampke – Yours is a separate distinct dwelling unit that you are renting on a long term. A. Richardson – We are talking about rentals of less than 30 days.*

Q. *Fuliva Quilici – Said she rents her house 2 weeks of the year. She noted that it is unbelievable how*

people don't respect the obvious. She agrees that the proposal really offers remedies for all different parties. She said she has had renters who would love to use the 2 hour response as an excuse so they don't have to pay and unfortunately once in a while these things happen. She thinks it offers protections for the owners.

A. Lampke – The 2 hour period is what a property owner or a local contact person has to be able to respond to the problem. A tenant that has a complaint saying that the hot water heater is not working and not going to pay money for it, typically they would have to put the money up front for the short-term rentals. This bylaw would not justify someone not paying their rent.

Q. D. Gladstone – This is a complex issue and she stands on one side of the issue but tries to be open and see other sides too. In that respect, she tries to think outside the box and said that it's interesting what Mr. Canavan came up with, as it was suggestion she was going to make about the permitting. She said that she heard there are homes that are rented out for the past 100 years and she would say that it would be reasonable to request a permit to have notification to go out to the neighbors. If you live in a neighborhood that has been a residential neighborhood and your next door neighbor changes every week, they are not as caring about the neighborhood and it's a very uncomfortable feeling. She is asking to consider to have a permit that considers about how the neighbors feel about that particular neighborhood.

A. Lampke – If there was a special permit process, people would have the opportunity to come and speak in favor or against it and it's up the granting authority to make the decision.

Q. Mr. Gould – Asked as to the difference between the certificates?

A. P. Lombardo – There are two different certificates. When you build a new house, a Certificate of Occupancy under the Building Code is issued. The Certificate of Occupancy being discussed under this bylaw is a separate one that is issued by the Board of Health and given to many rentals around the Town and done every year. It is under the existing bylaw.

Q. Juliette Floyd, 46 Point Allerton Place – She thinks it is a terrific bylaw, and wants to thank the Town. She regrets that she has to rent for six weeks a year as she would like to be here more in the summer, but needs the rental income to support her property. She owns her home and supports this regulation. Her own experience is that 7 day makes a huge difference. She always signs a lease. She pays her property manager 10%. He knows the neighbors, so she is in favor and wants to thank the Town for regulated it.

M. Gladstone – Commented as follows: distributed three handouts to #1, Hull 31 vacation rentals from the printout of the website VRBO, which state that all of these houses says sleeps 9-10 and then on the far right hand column, it says \$483 per night. People are renting these houses like motels. People are renting these things on a daily basis and this bylaw would prohibit that. It's also interesting that the third one down is 107 Beach Avenue and we heard conversations about 2 properties in the Town of Hull, 107 happens to be the subject of the C&D order that was not appealed and therefore not having appealed, there is a C&D order that is irrevocable. Nevertheless, these people are advertising that they are renting by the night, minimum 4 night stay and they are renting for huge amounts of money for a per week basis. These are the houses that are problematic. The second piece is from a webpage for 110 Manomet Ave which is the subject one of the C&D orders in the ZBA hearing. This is from the website today and on the 4th page in, you'll see that they are talking about off-peak rates and then the rates per week and book now and what's available and what's not available and the first page says that this 8-9

bedrooms and you can park 8-9 cars and they are charging \$4000 per week in a house that has never been owner occupied. If you look at the last page of that, you'll see postings from people who are looking to rent. The top one says that "we are interested in Labor Day 2015, Wed – Wed, I am getting married at the Red Lion Inn and would love to house for the bridal party." So we're putting in a bridal party. We already had this type of experience in this house. This house is continually packed week after week with 20-25 people. All of this activity needs to stop. The Planning Board had no input in terms of this proposed bylaw; they have not rendered any opinion. There is also a zoning bylaw committee and according to them, the purpose of the zoning bylaw committee is to study and report to the Planning Board to update the zoning bylaw and maps. This is not ready to go to press in his opinion, abuse is continuing. The bylaw makes no restrictions on the number of people that can put in these houses. Lemnios replied as follows– He thinks his process points were off. This is a warrant article, the citizens can oppose and it doesn't require the Planning Board to participate. They will have a formalized set of meetings going forward. The bylaw regarding CO and the Board of Health would provide as to how many people are allowed in a house. People will have ample time to discuss this. He believe we are still back at the fundamental issue is if people want to do something like this. And if you do, what type of restrictions and regulations you want to put in place.

J. Duffy (Planning Board member) commented as follows – As far as the Planning Board is concerned, its next meeting is tomorrow evening. As far as the business permit issue that Jim Lampke raised, he thinks that's a super idea. He has looked at a plethora of websites and scores of cities and towns that have done so across the country and it is a really big issue. There is about 85% that use the permit process. Lampke –Generally, certain Boards will be vested the authority to issue permits and authorities. Lemnios – Jim needs to research, if could we can create a separate body that would deal with the issue of rentals or something along those lines.

Q. *E. Kane, 108 Manomet Ave. – Asked about the number of occupancies. What is the criteria that for the number of occupants?*

A. *B. Kelly (Assistant Building Commissioner) – It would have to be by the size of the bedrooms, 70 sq. ft. for 1 person in a bedroom.*

Richardson thanked everyone that participated with their questions.

AT THIS POINT, THERE IS A FIVE-MINUTE RECESS

LICENSES

*Unanimously approved the license for Knights of Columbus, 440 Nantasket Avenue (A) One day All Alcohol for March 15, 2014 (B) One day All Alcohol for March 29, 2014 (C) One day All Alcohol for April 12, 2014 on a Motion made by **Olivieri**, seconded by **Sestito**.*

*Unanimously approved the license for Richardson E. Laws dba Seaport Livery Service – Livery Vehicle License – NEW on a Motion made by **Olivieri**, seconded by **Sestito**.*

LICENSE RENEWAL

*Unanimously approved the license for Hull Yacht Club, Inc. Fitzpatrick Way, Jeffrey Jorgensen, Manager (All Alcohol as a Club (B) Entertainment (Live, Jukebox, DJ, Karaoke) on a Motion made by **Olivieri**, seconded by **Sestito**.*

*Unanimously approved the license for Nantasket Beach Salt Water Club, Inc. Fitzpatrick Way, Tahnya DiCroce, Manager (Common Victualer (B) All Alcohol as a Club (C) Entertainment (Live, Jukebox, DJ and Karaoke) on a Motion made by **Olivieri**, seconded by **Sestito**.*

*Unanimously approved the license for Bayside Marketing Systems, Inc. dba Nantasket Lobster Pound, 50 George Washington Blvd., James O'Brien, Manager (A) Common Victualer (B) All Alcohol Seasonal as a Restaurant on a Motion made by **Olivieri**, seconded by **Sestito**.*

NEW BUSINESS

Lampke mentioned that the play *Oklahoma* will be presented at the High School the upcoming week-end.

Richardson announced that the next Board of Selectmen meeting will be held on Tuesday, March 18, 2014.

Motion: Richardson requested a Motion to adjourn. [

Motion- Sestito, so moved

Second: Olivieri

Vote: Unanimous in favor.

The Selectmen moved to adjourn at 9:59 p.m.

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 March 11, 2014 Meeting
2. Town of Hull Press Release
3. Latest Draft Version of the Transient Rental Zoning By-Law dated 3/5/14
4. Email from Lampke to Lampke dated March 7, 2014 re: redline version of recent changes to Trans. Rental.

5. Three handouts from M. Gladstone from VRBO of three properties
6. Email from Nadine Henry to BOS dated March 10, 2014 re: short-term rentals
7. Email from James Canavan to BOS dated March 11, 2014 re: zoning by-law change
8. Email from Lemnios to Allen dated March 11, 2014 re: Building 2 documents
9. Email from Lemnios to Allen dated March 11, 2014 re: Letter to BOS re: Proposed Zoning By-Law Change
10. License for Knights of Columbus, 440 Nantasket Avenue (A) One day All Alcohol for March 15, 2014 (B) One day All Alcohol for March 29, 2014 (C) One day All Alcohol for April 12, 2014; License for Richardson E. Laws dba Seaport Livery Service – Livery Vehicle License – NEW ; License for Hull Yacht Club, Inc. Fitzpatrick Way, Jeffrey Jorgensen, Manager (All Alcohol as a Club (B) Entertainment (Live, Jukebox, DJ, Karaoke); License for Nantasket Beach Salt Water Club, Inc. Fitzpatrick Way, Tahnya DiCroce, Manager (Common Victualer (B) All Alcohol as a Club (C) Entertainment (Live, Jukebox, DJ and Karaoke); and License for Bayside Marketing Systems, Inc. dba Nantasket Lobster Pound, 50 George Washington Blvd., James O'Brien, Manager (A) Common Victualer (B) All Alcohol Seasonal as a Restaurant