

**FOCUS GROUP ON RENTAL PROPERTIES NEAR THE COLLEGE
MINUTES
Thursday, April 9, 2009**

The Focus Group on Rental Properties Near the College held a meeting on Thursday, April 9, 2009 at 7:30 pm in the third floor conference room of the Municipal Building, 401 Lafayette Street.

ATTENDANCE

Present were Messrs. Fox, Fitzgerald, Pons, Talley, and Witkowsky, and Mses. Murphy, McCord, and Shackelford. Also present were Facilitator Bill Porter and Recorder Kaitlin Keller. Absent were Mr. Dell and Granger.

AGENDA

Approval of Minutes for April 2, 2009 Meeting

Mr. Porter requested that the April 2nd 2009 meeting minutes be approved as submitted. The minutes were unanimously approved.

Presentation by Sarah Rojas, President of the Student Assembly 2009-2010, College of William & Mary

Mr. Fox briefly introduced Ms. Rojas, newly elected President of the Student Assembly. Ms. Rojas stressed her desire to work closely with both the city and college next year. She explained that one of her initiatives is an off campus student association that would include a Vice President of Outreach as a liaison for resident to address concerns with off campus students. Students will also receive an off campus student guide that will include information on trash collecting and recycling, among other areas. Ms. Rojas stated that she hoped to have student and resident barbeques throughout the year, as well as an annual off campus student panel that would include representatives of all community stakeholders to address student-resident relations.

Discussion with Dr. Kevin Hughes, Deans of Students, Christopher Newport University

Mr. Porter introduced Dr. Hughes of Christopher Newport University (CNU). Dr. Hughes discussed the CNU Neighborhood Relations Committee, which met for the first time last week. The committee was established to better relations between students and residents in single family neighborhoods and to look for solutions to problems, not just as an avenue to voice displeasure.

Dr. Hughes also stated that CNU has grown significantly in the past ten years, which has led to an increase in off campus housing. When complaints are raised to Dr. Hughes against students, he first talks to the students in an informal setting to explain the issue and the potential negative repercussions to the students' academic careers. If necessary, Dr. Hughes works with a colleague at the City of Newport News to get names from registered addresses. Dr. Hughes speaks with colleagues at the City of Newport News at least once every few weeks and talks with the police

regularly. He explained that while the police do not specifically target neighborhoods, there are certain “hotspots” to which more attention is paid.

Dr. Hughes also stated that CNU reserves the right to adjudicate students if their actions impact the college community. Issues that fall into this category include violent acts, hazing, rape, verbal discrimination, etc. He stated that while there are likely some violations of the three person rule, the bigger property issue in the Newport News community is parking on lawns to avoid paying parking fees. Most property complaints involving property maintenance issues are usually resolved through an educational conversation. Newport News residents can e-mail or call Dr. Hughes with such complaints to address the issue without involving the police. When Dr. Hughes meets with students, he explains the reason they are there, reminds them of the possible legal concerns, that the University receives police reports, and that certain behaviors can violate the University Honor Code. Dr. Hughes in turn reminds the residents that adjudication could result in students living in the neighborhood without any university authority over them. He stated that only several hundred students live in single family neighborhoods, as most off campus students live in Port Warwick.

In terms of complaints received due to off campus student behavior, Dr. Hughes stated that he hears of approximately one per month. These complaints are received from the Newport News police, given to the CNU Campus Police through a mutual agreement, and then passed along to the Office of the Dean of Students. The low number of complaints, despite a zero tolerance alcohol policy, is in part due to the nature of Port Warwick, as many student parties occur in this area which is largely removed from neighborhoods. Approximately two complaints from occurrences in Port Warwick reach Dr. Hughes monthly, but he emphasized that this does not mean the city police did not find other disturbances in the area or warn students about their inappropriate behavior without citing them. Dr. Hughes stated that students at CNU enjoy this type of apartment style living, and newly built resident halls, The Village, are modeled similarly, with retail businesses such as Panera on the first floor and apartments above them. Fifty eight percent of students live on campus.

Dr. Hughes stated that students are good people who contribute significantly to the community, but many are less than cognizant of their neighbors and need increased education when making the transition to off campus housing. He stated that this is one area upon which CNU hopes to improve in the near future.

Discussion of Possible Recommendations with City Staff Available for Questions, including: Christina Shelton, Assistant City Attorney, Reed Nester, Planning Director and Mike Yost, Chief of Police

Ms. Shelton addressed several questions she received beforehand regarding the sub-group proposals. She explained that a variance can only address the physical characteristics of a lot, such as the setback or parking, not the use of the dwelling once it is on the lot.

Ms. Shelton then explained the legal differences between a special exception permit, a special use permit, and an administrative procedure. A special exception permit would require a list of conditions for special exception and would need to be approved by the Board of Zoning Appeals (BZA). An example of this is the ability of an owner of a single family home to rent two

bedrooms to unrelated persons. Appeals from the BZA go to the Circuit Court as a judicial appeal. The BZA consists of five members who serve for five years and make land use decisions. Any board created based upon Focus Group recommendations could only serve in an advisory capacity and recommendations would have no force of law. Ms. Shelton then explained that a special use permit system would require permit approval by the Planning Commission, which consists of seven members who are appointed for four year terms, as well as the City Council. Under both systems, permits can be revoked, but proving the violations would result in a similar process as is currently in place, and would require significant evidentiary support.

Ms. Shelton was asked if a Zoning Ordinance change could be structured so that only the term family is defined in the Zoning Ordinance and permits for others go through an administrative procedure. She explained that this would likely be infeasible as it would have Federal implications involving freedom of association. Permits can involve health, safety, and welfare issues only. The definition of family can be restructured, but other groups must not then be excluded from the ordinance. Currently, the Zoning Ordinance defines unrelated persons, single families, two unrelated persons and a dependent, and group homes. If the definition of unrelated persons is taken out of the code, the three person rule would actually become a two person rule. Ms. Shelton explained that everyone must be included in the definition one way or another, but that the restrictions on the number of unrelated people in single family homes could depend on the zoning district. She gave the example of Blacksburg, Virginia, which has a narrow definition of family and uses it to restrict the number of unrelated people living in residential districts to two to three maximum occupancy limits, but allows four unrelated persons to live together in non-family districts. In this case, each zoning district has a maximum occupancy, and the definition of an unrelated person is separate from that of a family.

Ms. Shelton then explained how grandfathering occurs. Currently, every house in Williamsburg that was a rental unit under the previous four person rule and is still used the same way, without a period of two years in between rentals, can still be rented to four people. Essentially, a property is used in conformity if the legal use does not change or cease for a consecutive period of two years.

She also stated that an exception can be made in the Zoning Ordinance for a case-by-case review for exceptions, but that some minimum guideline should be present in the code to determine the number of unrelated persons that can live together if a landlord opts to not apply for a permit. Beyond three people a permit process would be required to define the criteria to qualify for a permit. If an administrative procedure is utilized, this process would be run by city staff without public hearing. Under special use and special exceptions permitting processes, public hearings and advertisements for adjacent neighborhoods would be required. Ms. Shelton also explained that a cap for streets or neighborhoods based on use cannot be implemented, because the Dillon Rule does not allow the Zoning Ordinance to prohibit renting a single family dwelling to a future resident.

Ms. Shelton answered several other questions given to her by Mr. Dell, the first regarding a landlord's notice before entering a rental property. She explained that the Landlord-Tenant Act sets minimum standards of conduct and requires landlords to give reasonable notice before entering the premises. While "reasonable" is not defined clearly, work orders do require 24 hours notice, and emergency situations do not apply. Ms. Shelton also stated that people cannot be

forced to release personal information, such as addresses, and that the City of Williamsburg could create a lease template to suggest to landlords, but that lease language is ultimately up to the discretion of the landlord, provided it is legal. She explained that the city staff working on the proposed four person rule last fall searched for an adequate definition of “bedroom” but that there is no definition in the Virginia State Building Code and there is disagreement among state building inspector and codes compliance documents. Any definition that the Focus Group recommends will likely only be able to apply to the permitting process.

In regard to a point system for tenants who receive complaints and property maintenance violations, Ms. Shelton said there would likely be due process issues. Any findings would need substantial evidentiary support and be based on court findings. A Homeowners’ Association would create binding requirements, but these requirements could not be enforced upon those current homeowners that do not opt-in to the association.

Mr. Crimmins, Ms. Rojas’ Chief of Staff, further stressed the new student administration’s devotion to educating off campus students to change negative mentalities. Police involvement only creates a shock that may or may not work and can create a greater divide among the community and students, whereas education helps students take responsibility for themselves and their actions in the community. He also emphasized the importance of communication among stakeholders and their commitment to having Student Assembly members talk with off campus students who receive complaints against them.

Agenda Topics for April 16th Meeting

Discussion of sub-group recommendations and considerations will continue on April 16th, 2009.

Public Comment

David Kranbuehl, 201 Harrison Avenue, stated that CNU and Newport News are ahead of the Williamsburg community and College in dealing with these issues. He said that students are good people, the College needs to build more student-oriented housing, and that there was no dialogue regarding the preservation of single family neighborhoods. Mr. Cranview expressed that there needs to be an enforcement mechanism, and that the criteria for the permit process need to be more clearly defined and renewable.

Sharon Baker, of Skipwith Farms, felt that Ms. Rojas’ comments were positive and stressed the need for an Off Campus Housing Office and the annual panel of stakeholders. She informed the Focus Group that, years ago, students needed to get permission from the College to live off campus. She asked that Dr. Hughes be asked whether or not misrepresentation on a lease would fall under the jurisdiction of the Honor Code. Ms. Baker also stated that neighbors have a right to know about the use of the house next door, as such the public hearing process is a crucial step in the permitting system, one that an administrative procedure would not require.

Adjournment

There being no further business, the meeting was adjourned at 9:00 pm.